

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CLIFF BURKE THOMPSON
and DAVID KIRBY

Appeal 2006-2737
Application 09/576,462
Technology Center 3600

Decided: February 28, 2007

Before KENNETH W. HAIRSTON, ANITA PELLMAN GROSS, and
ALLEN R. MACDONALD, *Administrative Patent Judges*.

MACDONALD, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134 (2002) from a final rejection of claims 1 to 53 and 55 to 62. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

TREATMENT OF AMENDMENT FILED NOVEMBER 18, 2005¹

For purposes of this appeal, we treat the Amendment (not yet entered) as having been entered due to the Examiner's statement (March 3, 2006) that "the amendments have overcome the rejections"

INVENTION

Appellants invented a method, system, and computer program product for processing customs transactions. The invention automates the processing and storage of parts and tariff number assignments with summarization for customs reporting purposes utilizing the Internet.

(Specification 1: 3-5)

¹ The Examiner's Answer mailed September 20, 2005, contained a new ground of rejection pursuant to 37 C.F.R. § 41.39(a)(2). On November 18, 2005, Appellants filed a Reply Brief and an Amendment pursuant to 37 C.F.R. § 41.39(b). The last sentence of § 41.39(b)(2) provides:

If a reply brief filed pursuant to this section is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the primary examiner under paragraph (b)(1) of this section.

The Examiner's communication mailed March 3, 2006, in effect denies this request to reopen and maintains the appeal. It might have been argued that such a denial was not in compliance with the rules. However, despite the Examiner's specific request that Appellants acknowledge the March 3, 2006, mailing, no response was forthcoming. Accordingly, we deem Appellants to have waived any procedural error which might have occurred in the manner in which the Examiner handled the appeal.

Claims 1-9 are representative of the claimed invention and are reproduced as follows:

Claim 1: A method for processing import/export transactions over a network, comprising the steps of:

inputting invoice data associated with an import/export transaction at a first terminal coupled to the network, wherein the invoice data includes a product identifier identifying a product to be transported in the import/export transaction;

transferring the invoice data from the first terminal to a server hosting a database of product identifiers and tariff classification information particular to each of the product identifiers;

matching the product identifier identifying the product to the product identifiers in the database; and

outputting a data record in response to the matching step, wherein the data record includes tariff classification information associated with the product identifier identifying the product.

Claim 2: The method as recited in claim 1, wherein the step of outputting the data record includes the step of e-mailing the data record to a second terminal coupled to the network.

Claim 3: The method as recited in claim 1, wherein the step of outputting the data record includes the step of downloading the data record to a second terminal coupled to the network.

Claim 4: The method as recited in claim 1, wherein the step of outputting the data record includes the step of printing the data record.

Customs and Trade Automated Interface Requirements (C&TAIR hereinafter), Appendix G, (January 2000)

REJECTIONS AT ISSUE

Claims 1-34, 36-53, and 55-62 stand rejected under 35 U.S.C. § 103 as being obvious over the combination of Pool and Kroenke.

Claim 35 stands rejected under 35 U.S.C. § 103 as being obvious over the combination of Pool, Kroenke, and C&TAIR.

We also use our authority under 37 C.F.R. § 41.50(b) to enter new grounds of rejection of claims 1-18, 24-26, and 46-50. The basis for this is set forth in detail *supra*.

Throughout our opinion, we make references to the Appellants' Briefs, and to the Examiner's Answer for the respective details thereof.²

² Appellants filed a Brief on May 4, 2004. Appellants filed a Reply Brief on November 18, 2005. The Examiner mailed an Examiner's Answer on September 20, 2005, fully replacing an Examiner's Answer mailed June 29, 2004.

OPINION

- I. Have Appellants shown that the Examiner has failed to properly establish claims 1-34, 36-53, and 55-62 are unpatentable over Pool and Kroenke?

It is our view, after consideration of the record before us, the Appellants have shown the Examiner failed to present a proper prima facie case of obviousness. Accordingly, we reverse. We treat claim 1 as exemplary of claims 1-34, 36-53, and 55-62.

In rejecting claims under 35 U.S.C. § 103, the Examiner bears the initial burden of establishing a prima facie case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). *See also In re Piasecki*, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). The Examiner can satisfy this burden by showing that some objective teaching in the prior art or knowledge generally available to one of ordinary skill in the art suggests the claimed subject matter. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). Only if this initial burden is met does the burden of coming forward with evidence or argument shift to the Appellants. *Oetiker*, 977 F.2d at 1445, 24 USPQ2d at 1444. *See also Piasecki*, 745 F.2d at 1472, 223 USPQ at 788.

An obviousness analysis commences with a review and consideration of all the pertinent evidence and arguments. “In reviewing the [E]xaminer’s decision on appeal, the Board must necessarily weigh all of the evidence and argument.” *Oetiker*, 977 F.2d at 1445, 24 USPQ2d at 1444. “[T]he Board must not only assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the agency’s conclusion.” *In re Lee*, 277 F.3d 1338, 1344, 61 USPQ2d 1430, 1434 (Fed. Cir. 2002).

With respect to independent claim 1, Appellants argue (Br. 5-6), “[U]nder the Examiner’s interpretation of claim 1, there would be no reason to perform the matching and outputting steps, since the commodity code is already known, if it is to be assumed that the commodity code is the same as the product identifier.” We agree.

Appellants correctly point out that commodity codes pertain to product types and do not identify a particular product within the type (Br. 5). Because the Examiner equates the product identifier and commodity code (Answer 5: 25) in his prima facie case, the Examiner’s case has been shown to be defective.

Therefore, we will not sustain the Examiner's rejection under 35 U.S.C. § 103.

At page 4, third from last line, through page 5, line 12, and at page 6, lines 4-7, of the Brief, a laundry list of conclusions about the *Pool* reference is presented without providing any analysis in support of those conclusions. Without some explanation in support of Appellants' conclusion, Appellants have failed to present any argument on these points.

II. Have Appellants shown that the Examiner has failed to properly establish claim 35 is unpatentable over Pool, Kroenke, and C&TAIR?

With respect to dependent claim 35, we note that the Examiner has relied on the C&TAIR reference solely to teach "*the customs entry report is sorted by tariff numbers*" (Answer 23). The C&TAIR reference in combination with Pool and Kroenke fails to cure the deficiencies of Pool and Kroenke noted above with respect to claim 1. Therefore, we will not sustain the Examiner's rejection under 35 U.S.C. § 103 for the same reasons as set forth above.

III. New Ground of Rejection Under 35 U.S.C. § 102

We make the following new ground of rejection using our authority under 37 C.F.R. § 41.50(b). Claims 1-7, 9-16, and 18, are rejected under 35 U.S.C. § 102(e) as being anticipated by Pool.

Findings of Fact

Pool describes:

1. An electronic merchandise catalogue and ordering system for use on the internet/intranet which is directed to the facilitation of international purchasing of goods over the internet/intranet, addressing all aspects of such transactions. (Col. 1, ll. 8-12).
2. A transaction program whereby a buyer can go shopping by computer almost anywhere in the world so that goods selected for purchase are priced to include any import duties or other such taxes accruing to the purchaser thereby allowing the purchaser to pay these funds as part of the cost of the goods selected at the time of the purchase. (Col. 3, ll. 11-17).
3. A system for carrying out an international transaction over electromagnetic force (EMF) conventional links carried out over the internet using computer to computer communications where the process is initiated by accessing an internet web site or private site controlled by the international transaction program. (Col. 3, ll. 37-43).
4. A system where after selecting products for consideration the customer can trigger calculation of all charges involved in an international transaction for purchasing the selected product by selecting a shipping destination, and the customer can initiate the order for the selected product including automatic credit authorization and the generation of an electronic title. (Col. 3, ll. 46-52).

5. A seamless order entry system for shopping on the World Wide Web or private networks where a plurality of computer databases and systems are accessed to complete the functions necessary for both national and international transactions for the purchase of goods and services. (Col. 3, ll. 61-66).
6. A transaction system which contains or interacts with various databases, including:
 - 1) product and catalogue information, including translations to different languages of product catalogues;
 - 2) currency information, including conversion data and alarm data indicating instability;
 - 3) product codes from harmonized tariff tables, including tax and import information, including administrative requirements and data for satisfying such requirements as well as foreign duty information, including methods of calculating all duties, luxury taxes, etc.;
 - 4) vendor inventory and order entry database;
 - 5) shipping information, including all options for each leg of a journey between product origination and customer destination;
 - 6) credit authorization and/or funds transfer confirmation database and processing system; and
 - 7) customer information, including credit and financial data, as well as purchasing records and profiles.(Col. 4, ll. 2-20).
7. The transaction system integrates all of the aforementioned databases, including databases owned by the system operator controlling the transaction system of the present invention, as well as external databases (such as credit authorization database 6). (Col 4, ll. 26-31).

In the system of Pool:

8. A user accesses the internet web site upon which the customer portion of the transaction is carried out. A menu is provided to

the user or customer permitting selection from among a plurality of different catalogues in a manner already well known in the conventional art. (Col 4, ll. 47-51).

9. The first database can be managed by the system operator of the transaction system or can be external to the transaction system. In the latter case, the system operator can access such data over the internet, intranet or any other electromagnetic force (EMF) wave communications link. (Col 4, l. 64 through col. 5, l. 2).
10. The first database and processing center serves as a catalogue builder (Col 5, ll. 10-12). The customer selects and views a particular catalogue and product within that catalogue for consideration (Col 5, ll. 34-35). Making a selection from the catalogue produces linked web pages for any of the products listed (Col 5, ll. 46-47). When a particular product is selected in the customer's currency, a price in the customer's currency is automatically requested (Col 5, ll. 58-61). The currency conversion is carried out at the second database and processing center (Col 5, ll. 63-65). The price is displayed to the customer almost instantaneously (Col 6, ll. 37-38). Also displayed with the price is a message indicating that the price displayed is limited to the vendor's factory (Col 6, ll. 38-40). The message will also indicate that the customer must request additional information to obtain the price for the product to be delivered to a destination of the customer's choosing (Col 6, ll. 41-44). Thus, the customer is given the option of determining the real price of the transaction (Col 6, ll. 51-52). If the customer makes this request, the next stage of the process is carried out. (Col 6, ll. 52-54).
11. Responsive to an affirmative answer by the customer, a commodity code for the selected product is obtained by accessing the third database and processing center. The third database and processing center contain look-up tables of the harmonized international tariff tables and classification system, as well as the formats for any necessary import/export data, and administrative requirements for all countries involved in possible transactions. (Col 6, ll. 54-60).

12. This commodity code will be used to look up other data related to the product and the country of destination, as well as generate appropriate documents from the third database. (Col 6, ll. 65-67).
13. The commodity code can be displayed to the customer for his or her information. However, this is not necessary. Rather, the commodity code in conjunction with the country of destination is used to trigger certain subsequent operations of the transaction process. (Col 6, l. 67 through col. 7, l. 5).
14. The fourth database and processing center is preferably generated and maintained by the selected vendor. (Col. 7, ll. 19-21).
15. The customer inputs the destination for purposes of calculating the cost of delivering the selected product or products to that destination. This information, in conjunction with the commodity code triggers the particular calculations for packaging, shipping, taxes, duties, insurance, etc. of the rest of the transaction process. (Col. 7, ll. 28-33).
16. The results of this calculation are converted to the currency requested by the customer. Thus, a potential customer has the full cost of a foreign transaction displayed in front of him before the transaction is actually carried out. (Col 8, l. 65 through col. 9, l. 3).
17. At this point the customer has the option of investigating the prices of other products or of entering the order for the products selected. To order the products the customer activates the appropriate area on the menu screen. This activation triggers two processes. In the first process an order is sent directly to the vendor electronically requesting shipment to the customer's destination. While this is the preferred method, the order can be buffered electronically by recording devices, or handled by human operators, or any combination of the three to access the order entry operation of the fourth database and processing center, preferably maintained by the vendor. The vendor can then process the order for the selected products, deduct from

inventory, and arrange for shipping to the requested destination. (Col. 9, ll. 7-20).

18. Once electronic funds (or other authorization) are transferred to the vendor from a local clearing house, the vendor will utilize a connection to the transaction system of the present invention to generate an electronic title, also referred to as a commercial invoice. Paper copies of the title or commercial invoice can also be generated from the electronic original for archival purposes or for presentation to entities requiring hard copies to further process the title or commercial invoice. Generation of the electronic title is done to create a faster transfer of title through all the official channels that must approve of the title and from there to the customer. The electronic title can be generated by the vendor or the instant transaction system upon authorization by the vendor. (Col. 10, ll. 15-29).
19. Along with the physical packing, handling and shipping of the goods, it is necessary to carry out the administrative functions. The present inventive system handles these by sending electronic requests to the necessary governmental agencies based upon the commodity code from the harmonized tables and the country of destination. This combination will trigger a series of operations (out of a large number of possible operations) to satisfy the administrative requirements for carrying out the transaction, including the generation of all necessary documents based on data from the third database. (Col 10, l. 66 through col. 11, l. 9).
20. The combination of destination and commodity code may automatically trigger a request to the Department of Commerce (DOC) for an export license. This can be done electronically since the DOC, like most government entities, is capable of receiving communications via e-mail and responding thereto. The electronic title can be sent as part of the request for the export license, and the response from the state department returned electronically. The electronic documentation from the DOC can then be used to make a request to the State Department to obtain clearance to export the subject goods, if

the commodity code and destination country justify that such a request be made. The electronic indication of an export license from the Department of Commerce and the electronic clearance document from the State Department can be sent electronically to the U.S. Customs service along with the electronic title to obtain prompt clearance that will allow the goods to be transferred quickly from the local carrier to an international carrier such as a plane or ship. (Col. 11, ll. 9-26).

21. The electronic documents can easily be converted into hard copies if signatures are necessary and converted back to electronic documents. (Col. 11, ll. 41-44).
22. Rather than providing a hard copy of a commercial invoice, an electronic copy with the authorization of the international carrier can be provided as an electronic document or a hard copy can be generated and provided with the signature of an official of the international carrier. (Col. 12, ll. 8-12).
23. Once an order is entered the customer information is loaded into the customer database and inventory information updated. The customer information can be used to create customer profiles to be stored in the 7th database and processing center. Such information can later be used to guide customers to catalogues or products related to previous purchases, as well as previously selected languages and currencies. (Col. 12, ll. 46-53).

Rejection of Claim 1

Pool describes a method of import/export transactions over a network.

(See Findings of Fact 1, 2, and 20).

Pool describes “selecting” a product from an on-line catalog (See Findings of Fact 10 and 11). Inherent to selecting the product is identifying the product. Otherwise the system of Pool would not be able to perform

subsequent process steps. Therefore, we find that Pool describes inputting a product identifier which by the terms of claim 1 is invoice data (“wherein the invoice data includes a product identifier”). Thus, Pool describes inputting invoice data as claimed.

Pool describes “transferring” the product identifier to a server hosting a database of product identifiers and tariff classification information particular to the product identifiers (See finding of Fact 11). Pools’ third database has a look-up table for finding the commodity code for the selected product. This requires that the product identifier be transferred as claimed or else the look-up process would be inoperative.

Pool describes “matching” as this is inherent to the operation of a look-up table such as the one shown in Pool.

Pool describes “outputting” (obtaining) a commodity code (Finding of Fact 11) which by the terms of claim 1 is a data record (“wherein the data record includes tariff classification information”). Thus, Pool describes outputting a data record as claimed. Further, even if the term “data record” were interpreted to require the outputting of additional information, Pool describes outputting such “other data” and “appropriate documents” (see Finding of Fact 12).

Rejection of Claim 2

Pool describes “e-mailing” an export license request to the Department of Commerce based upon the commodity code accompanied by the electronic title (Findings of Fact 19 and 20). The electronic title (commercial invoice) is previously generated from Pool’s transaction system by the vendor (Finding of Fact 18).

Rejection of Claim 3

Pool describes “downloading” because “e-mailing” is a form of downloading.

Rejection of Claim 4

Pool describes converting electronic documents to hard copies (Finding of Fact 21).

Rejection of Claim 5

Pool describes his system is on the World Wide Web (Finding of Fact 5). Therefore, access is inherently via a web browser. That is any terminal that accesses the web-based databases of Pool is by definition using a web browser.

Rejection of Claim 6

Pool describes an electrical system, i.e. computer-to-computer (Finding of Fact 3).

Rejection of Claim 7

Pool describes a web based system (Finding of Fact 5).

Rejection of Claim 9

Claim 9 is silent as to the particular results to be recorded. Is it the “data record” of claim 1 or some other result?

Pool describes entering an order (Finding of Fact 17) as a subsequent result of the look-up operation (Finding of Fact 11). The order can be recorded (Finding of Fact 17).

Rejection of Claims 10-16 and 18

Means plus function claims 10-16 and 18, are anticipated for the same reasons as discussed above with respect to claims 1-7, and 9.

We note that Appellants’ Reply Brief fails to point out specific structure (beyond the general purpose computer system of Fig. 2) corresponding to the means plus function language of these claims. We find such a general purpose computer system disclosed in Pool.

IV. New Ground of Rejection Under 35 U.S.C. § 103

We make the following new grounds of rejection using our authority under 37 C.F.R. § 41.50(b). Claims 8 and 17 are rejected under 35 U.S.C. § 103 as being unpatentable over Pool.

Rejection of Claim 8

Pool fails to describe updating his third commodity code and other data related to the product database. However, Pool describes maintaining the fourth database including deducting from inventory (Findings of Fact 14 and 17). This suggests that as data in a database becomes obsolete it must be updated. Therefore, it would have been obvious to update Pool's third database to replace obsolete information.

Rejection of Claim 17

Means plus function claim 17, is unpatentable for the same reasons as discussed above with respect to claim 8.

V. New Ground of Rejection Under 35 U.S.C. § 101

We make the following new grounds of rejection using our authority under 37 C.F.R. § 41.50(b). Claims 24-26 and 46-50 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

Contrary to the Examiner's statement of March 3, 2006, the November 18, 2005, Amendment does not overcome the rejection under 35 U.S.C. § 101. The problem remains. The amended language ("computer program product for storage on a computer readable medium") of claim 24 still merely requires that the computer program be capable of storage at a current or later time. Only a limitation similar to the following would overcome the § 101 rejection ("computer program product stored on a computer readable medium").

VI. Other Issues

The Board of Patent Appeals and Interferences is a review body, rather than a place of initial examination. We have made rejections above under 37 C.F.R. § 41.50(b). However, we have not reviewed claims 19-53 and 55-62 to the extent necessary to determine whether these claims are patentable over the Pool patent. We leave it to the instant Examiner to determine the appropriateness of any further rejections based on these references.

Further, with this decision we provide a copy of the United States General Accounting Office report GAO/NSIAD-98-5 directed to AUTOMATED EXPORT SYSTEM (AES). We find no mention of the

AES system in the Examiner's search record before us. Further, we find no mention of "TradePoint" which was the first system to transmit AES data in May 1995 (see press releases at www.kewill.com).

DECISION

In view of the foregoing discussion, we have *not* sustained the rejection under 35 U.S.C. § 103 of claims 1-53 and 55-62.

We have entered new grounds of rejection against claims 1-18, 24-26, and 46-50 under 37 C.F.R. § 41.50(b).

37 C.F.R. § 41.50(b) provides that, "[a] new grounds of rejection pursuant to this paragraph shall not be considered final for judicial review."

37 C.F.R. § 41.50(b) also provides that the Appellant, *WITHIN TWO MONTHS FROM THE DATE OF THE DECISION*, must exercise one of the following two options with respect to the new grounds of rejection to avoid termination of proceedings (37 C.F.R. § 1.197 (b) (2005) as to the rejected claims:

- (1) Submit an appropriate amendment of the claims so rejected or new evidence relating to the claims so rejected, or both, and have the matter reconsidered by the examiner, in which event the proceeding will be remanded to the examiner ...
- (2) Request that the proceeding be reheard under 37 C.F.R. § 41.52 by the Board upon the same record ...

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Application 09/576,462

No time period for taking any subsequent action in connection with
this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

REVERSED
37 C.F.R. § 41.50(b)

kis

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Notice of References Cited

Application/Control No.

09/576,462

Applicant(s)/Patent Under
Reexamination

Examiner

James Reagan

Art Unit

3600

Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification	
	A	US-			--	--
	B	US-				
	C	US-				
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FOREIGN PATENT DOCUMENTS

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NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)					
*	U	United States General Accounting Office Report, GAO/NSIAD-98-5, AUTOMATED EXPORT SYSTEM (AES)					
*	V	"TradePoint", (AES) May 1995, http://www.kewill.com					
	W						
	X						

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
 Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

GAO

Report to the Chairman, Committee on
the Judiciary, U.S. Senate

November 1997

AUTOMATED EXPORT SYSTEM

Prospects for Improving Data Collection and Enforcement Are Uncertain





United States
General Accounting Office
Washington, D.C. 20548

National Security and
International Affairs Division

B-278136

November 14, 1997

The Honorable Orrin Hatch
Chairman, Committee on the Judiciary
United States Senate

Dear Mr. Chairman:

Since the 1980s, federal agencies responsible for compiling U.S. trade statistics and enforcing U.S. export laws have experienced serious problems in obtaining accurate and timely data on exports. To improve reporting and enhance enforcement efforts, the U.S. Customs Service and the Census Bureau in 1991 initiated the Automated Export System (AES). AES allows exporting companies to electronically enter data on shipments, automatically checks for errors, and provides data to help detect export violations. Although it introduced the system as voluntary, Customs recognized that achieving a high level of participation in AES would be difficult and wanted its use to be mandatory. In 1996, Customs sought to make AES mandatory for some users. However, AES was not made mandatory, in part because companies raised concerns about the impact of AES on their business practices, especially if they are required to enter data before shipments depart.

At your request, we reviewed the potential impact of AES and the views of the export community regarding AES. Specifically, we sought to determine whether AES is likely to achieve its objectives of improving export data, enhancing enforcement efforts, and streamlining export data collection and, in so doing, we obtained the export community's views on AES. As you requested, we are also providing information on the export procedures of other selected countries. (See app. I for information on selected countries.)

Background

Merchandise trade, the exchange of goods with other nations, is an increasingly important component of the U.S. economy. The U.S. Customs Service collects data on imports and exports that the U.S. Census Bureau uses to produce statistics on U.S. trade. While Customs has numerous import responsibilities, its export functions include guarding against the exportation of illegal goods, such as protected technologies, stolen vehicles, and illegal currency.

Customs has broad authority to enforce export laws and regulations. However, it has historically placed more emphasis on imports than on exports. While U.S. import data is recognized as generally reliable, export data is viewed as less accurate. A 1997 Census report notes that the value of U.S. exports has probably been underreported by between 3 and 7 percent but could be understated by as much as 10 percent.¹ Underreporting of exports can significantly affect the accuracy of statistics on the nation's trade balance. Inaccurate trade statistics can be an impediment in negotiations for bilateral and multilateral trade agreements. Export statistics also are relied on by the government to calculate the gross domestic product (which is used to assess the performance of the U.S. economy) and to determine appropriate promotional programs for expanding exports. Export data is also used to establish controls on sensitive exports.

A primary source of export statistics is information that is recorded on a form called the Shipper's Export Declaration (SED). The SED contains information such as the nature, value, quantity, and destination of the goods to be exported. Generally, exporters or their agents are required by regulation to file the SED for each export transaction having a value over a certain amount, now set at \$2,500 for all shipments without a license.² Under current regulations, the SED must be delivered to the exporting carrier prior to exportation.³ Ocean and air carriers, with a bond on file,⁴ are permitted to file the complete manifest (a carriers manifest lists all the cargo it is transporting) with Customs within 4 working days after departure. For overland shipments, the SED must be presented to Customs at the time of export.

The major sources of error in merchandise trade statistics include missing SEDs and incomplete or inaccurate reporting. Since the 1980s, Customs, Census, and other government agencies have conducted numerous studies, which found serious problems with companies properly completing the document and filing it at the required time and place. For example, Customs completed an audit of selected ocean vessel manifests in 1996 that found about 29 percent of shipments listed on the manifest did not have the required SED. In 1997, Customs conducted an audit of airline

¹See "Understatement of Export Merchandise Trade Data," U.S. Bureau of the Census, Foreign Trade Division (Washington, D.C.: Jan. 1997).

²Mail shipments must be reported if they have a value over \$500.

³15 C.F.R. § 30.12.

⁴15 C.F.R. § 30.24.

manifests that determined 40 percent of SEDs were incorrectly completed. Without a properly completed SED, an export is either not recorded or recorded incorrectly.

Currently, about one-third of all export transactions are recorded on paper SEDs. Census collects another third⁵ of the export data on a monthly basis directly from exporting businesses through an electronic filing system known as the Automated Export Reporting Program (AERP). Census is terminating AERP in December 1999 because it believes the system is outdated and that AES will provide more accurate data. (Twenty-five percent of all AERP transmissions contain errors that must be corrected.) Census officials stated that AERP has systems limitations related to the amount of data it can accept. They stated that the system would require a complete redesign in methodology and computer technology in order to be able to accept more participants and improve data quality, resulting in a system similar to AES. Census officials also noted that about one-third of all AERP participants submit their data late via AERP.

Context for AES' Development

Customs and Census initiated AES in 1991 to improve (1) the collection and reporting of export statistics and (2) the enforcement of export regulations. Initially, the system was designed to replace the manual process of handling paper SEDs with a more efficient and less costly automated process that would increase the accuracy, completeness, and timeliness of SED data.

AES is an interactive system that allows exporters or their agents to electronically transmit SED information directly to Customs before a carrier's departure. In order to improve the quality of export data, data transmitted via AES is subjected to a series of automatic edits. The system in turn sends back to the exporter a message to check the data if it does not fall within statistical parameters developed by Customs and Census. (See app. II for information on how AES works.)

According to Customs, AES was also designed to improve the enforcement of export controls by evaluating the risk of export shipments based on

⁵The remaining one-third of export data is captured by the U.S.-Canada data exchange, whereby the United States and Canada exchange import records and use them to determine each country's exports to one another. For more information on the data exchange, see *Measuring U.S.-Canada Trade: Shifting Trade Winds May Threaten Recent Progress* (GAO/GGD-94-1, Jan. 19, 1994).

certain criteria, such as the country of destination and the type of cargo;⁶ compiling exporter histories; allowing for trend analysis; and providing inspectors with detailed commodity data prior to departure. Customs officials believe that the more export information they have, the more focused their efforts to target illegal shipments will be.

Finally, in 1994, in response to several initiatives including the Vice President's National Performance Review, Customs decided that AES should be expanded to provide a centralized database for collecting and processing export documentation required by the U.S. government. Customs planned to work with other U.S. government agencies that have export-related responsibilities to help these agencies meet their export information requirements through AES. (See p. 18 for a discussion of the present status of the single electronic filing center.)

Customs installed AES in all U.S. vessel ports in October 1996, and currently it is operational in all ports, including air, rail, and truck transit ports.⁷ Customs and Census officials estimate that they spent approximately \$12.9 million to develop and implement AES from fiscal year 1992 to 1997. These costs include, among other things, expenses for contractors, travel, and training. According to Customs' and Census' figures, both agencies estimate that together they will spend an additional \$32.2 million through fiscal year 2002 on AES implementation and maintenance.

This new system would require companies to make various changes in how they submit their export data to Customs. Companies that submit their export data via AERP will have to undergo modifications in programming the processing of their export data or return to submitting paper SEDs. Companies that submit their data via paper SEDs but want to participate in AES will have to automate their export processing, and/or purchase AES software, or use the facilities of a port authority or service center to transmit their data.

In addition, some segments of the trade community have alleged that AES will require major changes in their current business practices. Because

⁶Customs officials estimate that they inspect less than 1 percent of export shipments. Customs has not historically tracked the number of seizures that have resulted from its inspections. However, as of June 1997, all ports have been required to collect data on all outbound cargo inspections, including all commercial or personal shipments exported by any mode of transportation, and the resulting number of seizures of illegal exports.

⁷AES is not yet accepting transportation data for air, rail, and truck carriers. According to Customs officials, AES will be accepting air and rail transportation data by the end of 1998 and truck transportation data in 1999.

Customs has not strictly enforced the legal requirement that companies submit their SEDs to the carrier prior to departure, many companies have grown accustomed to turning in their SEDs to the carriers late. AES will require that companies file their export data directly to Customs, rather than the carrier, prior to departure.

The trade community has varying views on AES. To obtain these views, we conducted two surveys of potential AES users: (1) a nationally representative sample of 400 U.S. ocean freight forwarders and Non-Vessel Operating Common Carriers (NVOCC)⁸ and (2) 80 U.S. exporting companies that file paper SEDs. We also interviewed officials from 12 of the largest U.S. sea and air carrier companies and several trade groups representing various segments of the export community. (See app. III for complete survey results.) (We did not independently verify information provided by U.S. companies and trade groups.) We also interviewed Customs officials at 13 sea, air, and land ports. As of June 1997, we completed the surveys and interviews.

Results in Brief

It is not yet clear what benefits will result from the use of AES because many critical implementation issues remain unsolved. Although AES has the potential to improve export reporting and enhance enforcement efforts, it is unlikely to achieve these objectives unless more exporters are willing to participate and limitations that prevent other agencies from fully using the system are resolved. Concerning the trade community's limited participation, we identified the following:

- Only a small fraction of the export community—37 companies—is currently using AES, and the data entered represents less than 1 percent of all exports.
- Our survey of exporting companies suggests that most of them are not likely to use AES over the next 3 years.
- Twenty-five percent of all U.S. ocean freight forwarders had not heard of AES.

⁸Freight forwarders and NVOCCs make the arrangements for the shipment of goods for most exporters, including the filing of information required by Customs, Census, and other federal agencies. NVOCCs differ from freight forwarders in that they may also lease a vessel to transport the goods. For ease of presentation, hereafter we refer to both groups as "freight forwarders." Although our freight forwarder study population consisted of active licensed ocean freight forwarders and NVOCCs listed by the Federal Maritime Commission, and is not representative of air freight forwarders, 85 percent of the company officials we spoke with told us that their firms provide services to clients exporting by air.

The primary benefit cited by companies using AES and planning to use AES was automated filing. Other benefits cited included the potential for reducing paperwork and personnel and associated administrative costs, participating in the initial development of AES, and filing all export data at a central filing point. However, for some segments of the trade community, these benefits are outweighed by their concerns regarding the predeparture filing requirement, which they contend is inconsistent with their business practices and will be costly and burdensome to their business.

AES is designed to improve Customs' enforcement efforts by providing detailed commodity data to help the inspector target illegal shipments. It also is designed to provide a database that can be run against specific criteria to identify high-risk shipments and compile exporter histories. However, the system's usefulness as an enforcement tool is limited for several reasons. First, as currently designed, it is not linked with the databases of other law enforcement agencies. Second, under a program to facilitate the use of AES, Customs plans to permit approved exporters to file export data after shipment, which could undermine efforts to detect export violations before illegal goods are transported. Third, AES allows SED information to be transmitted only hours before a shipment's departure, which in most cases will not provide inspectors sufficient time for targeting possible illegal shipments. Finally, many Customs inspectors anticipate that illegal exporters are unlikely to use AES to file their export data, further limiting AES' potential as an enforcement tool.

Also, AES faces limitations in achieving its goal to create a single information collection and processing center for the electronic filing of export documentation required by the U.S. government. The system was also designed to reduce related export documents. Many export-related agencies are subject to existing regulations requiring them to retain their own licensing procedures. Ten of the 13 agencies with major export-related responsibilities say they have export requirements that will not be fully satisfied through AES.

Customs is attempting to resolve these issues through several means. For example, the Commissioner of Customs has proposed that Customs enter into formal negotiations with the trade community to resolve outstanding issues of concern. In addition, Customs is continuing to work with other agencies to identify any of their export requirements that can be potentially incorporated into AES.

Because Customs and Census plan to spend \$32 million beyond the \$13 million expended to date, we are concerned that Customs and Census will allow the system to proceed without fully resolving these issues. In our opinion, AES is at a critical juncture in its implementation. Senior management attention at both Customs and Census is needed to determine the extent to which concerns can be addressed that affect participation by the export trade community, that deal with the improvement of export enforcement, and that respond to the requirements of other agencies with export-related functions. After addressing these concerns, a cost-benefit analysis of AES is needed to determine how or whether to proceed with implementation.

Factors Hindering AES' Ability to Meet Its Objectives

Although AES has features to improve export data collection and enforcement efforts and to reduce paperwork, the system's effectiveness is hindered by low participation of the export community. Unless AES participation increases significantly, AES will not enhance the quality of export data or the enforcement of export regulations. In addition, other factors may limit AES' ability to achieve its objective of enhancing export control enforcement. For example, Customs' plans to introduce a post-departure filing program may impede the system's effectiveness as a tool for targeting illegal exports. Finally, AES will not likely serve as a central point for collecting and processing all export documents because other export-related agencies have information needs that they say cannot be fulfilled through AES.

Trade Community Participation Is Low and Likely to Be Limited in the Near Future

Trade community participation in AES is currently very limited, and our work showed most companies do not have immediate plans to participate in AES. As of September 1997, AES participants included 8 exporters, 27 freight forwarders, and 2 sea carriers out of tens of thousands of export-related businesses. Currently, less than 1 percent of all export data is being submitted via AES.

Customs expects participation in AES to increase for several reasons. For example, Customs is planning to introduce the Automated Export System Post-Departure Authorized Special System (AES-PASS), which is a program designed to encourage participation in AES by allowing qualified exporters⁹

⁹The exporter or the freight forwarder (on behalf of the exporter) will be allowed to apply for the program, and government agencies with export requirements will be responsible for authorizing an applicant's participation. These agencies will review all applications according to criteria and standards established by their respective agencies. Approval to participate in AES-PASS must be unanimous.

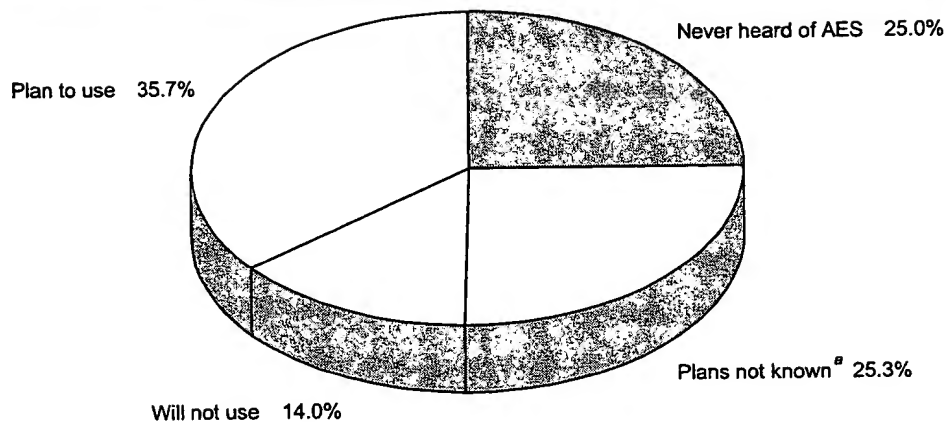
**Most Companies Surveyed Do
Not Have Immediate Plans to
Get on AES**

to submit a minimal amount of information prior to export—generally an exporter identification number and a reference number for the shipment. Further, Census is terminating AERP and hopes current users will switch to AES. Customs also anticipates an increase in participation since AES first came online in July 1997 for exports via air, truck, and rail.

Despite Customs' expectations of increased participation, most companies we surveyed do not have immediate plans to use AES. We surveyed 400 randomly selected freight forwarder companies and 80 exporters that file paper SEDs. As shown in figures 1 and 2, only about 36 percent of freight forwarders and about 32 percent of exporters we spoke with currently plan to use AES to submit their SED information; only 50 percent and 42 percent of those companies, respectively, reported that they plan to get on AES within the next 3 years. Of the companies that plan to use AES, only 4 percent of the freight forwarders and 5 percent of the exporters have filed a notice with Customs¹⁰ that they plan to participate in AES or are testing AES. (See fig. 3.) In addition, more than half the companies we surveyed that plan to use AES do not know when they will use it. Most companies did not know how much it will cost their company to implement AES and were not familiar with the AES-PASS program (see fig. 4).

¹⁰In order to participate in AES, companies must file a notice, or letter of intent, with Customs.

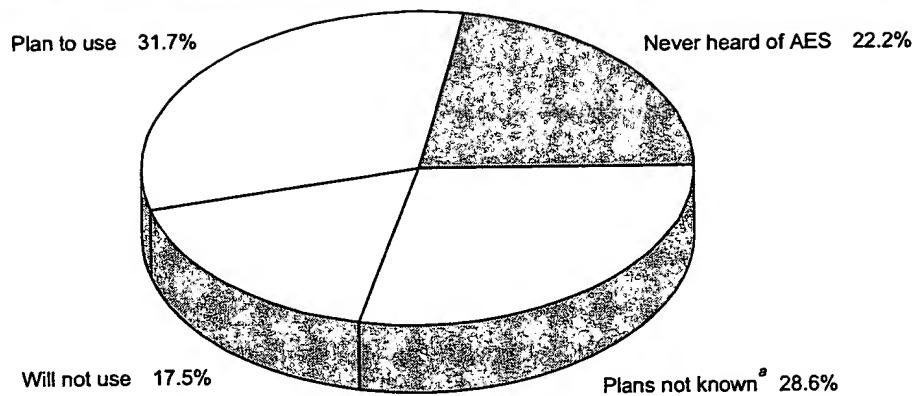
Figure 1: Freight Forwarders' Plans Regarding AES



Note: To present a complete composite of ocean freight forwarders' posture toward AES, figure 1 includes the responses from two survey questions: question 9, which asked whether or not companies had heard of AES, and question 12, which asked those companies who had heard of AES about their plans regarding its use.

^aCompanies whose "plans are not known" include companies that were undecided about whether to use AES and company officials we interviewed who did not know their companies' plans regarding AES.

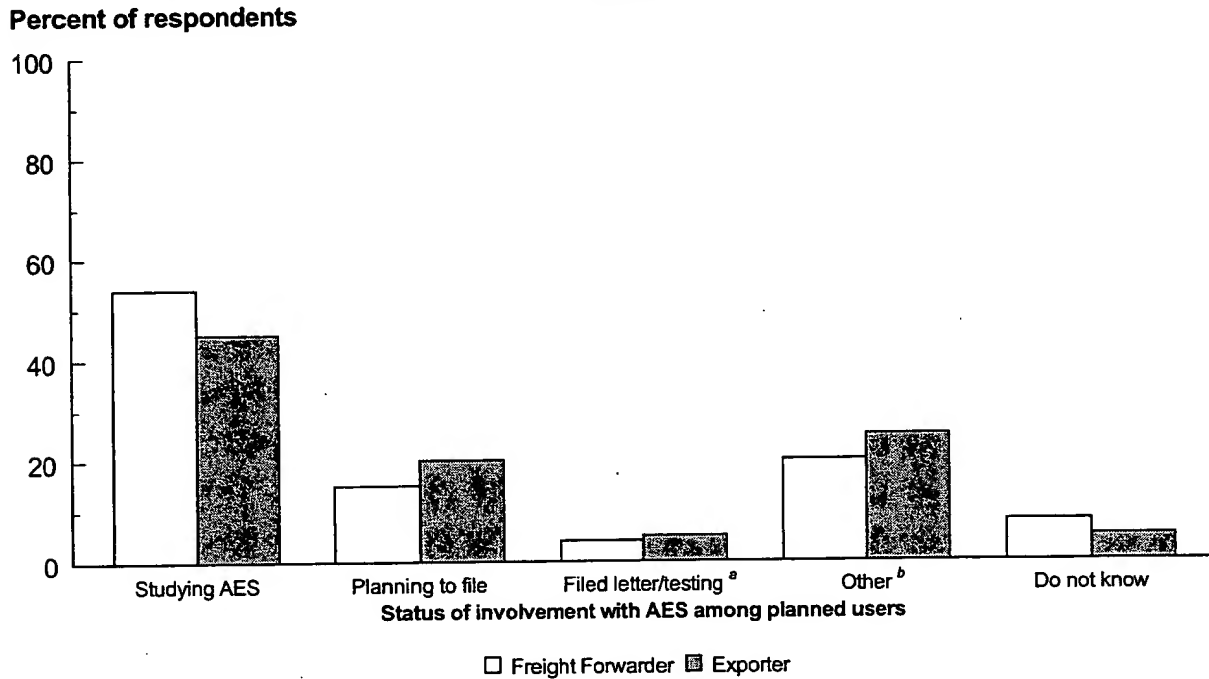
Figure 2: Exporters' Plans Regarding AES



Note: To present a complete composite of the total exporter survey population's posture toward AES, figure 1 includes the responses from two survey questions: question 9, which asked whether or not companies had heard of AES, and question 12, which asked those companies who had heard of AES about their plans regarding its use.

^aCompanies whose "plans are not known" include companies that were undecided about whether to use AES and company officials we interviewed who did not know their companies' plans regarding AES.

Figure 3: Freight Forwarders' and Exporters' Status of Involvement With AES (Those Planning to Use AES)

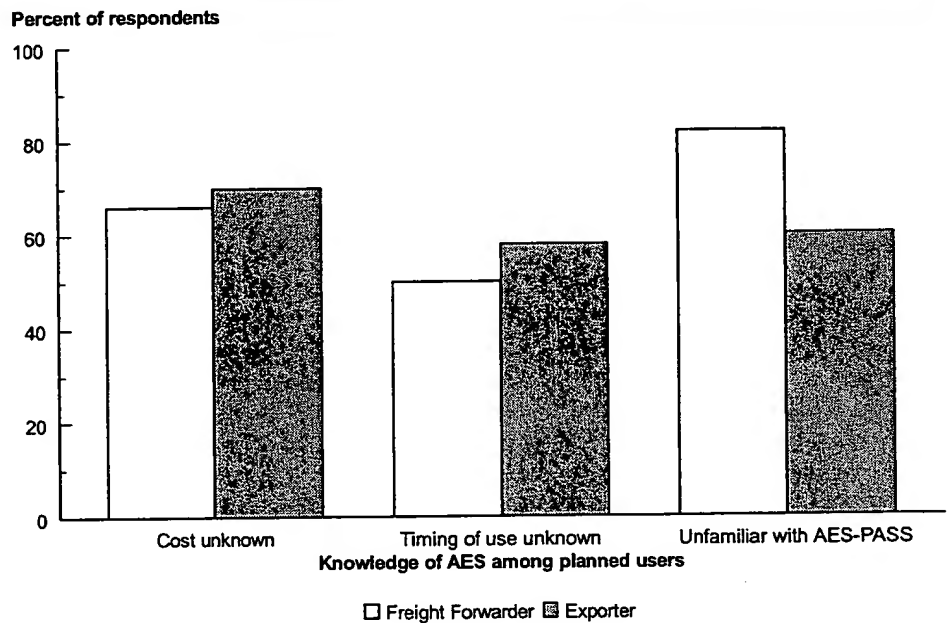


Note: Figure applies to the 117 freight forwarders and 20 exporters that plan to use AES.

^aIncludes companies that filed a notice or letter of intent with Customs that they intend to get on AES, and companies that are testing AES.

^bComments from companies that responded that their status of involvement in AES was "other" included those that were in the process of developing AES software or not at that time actively pursuing participating in AES because of a lack of information on the system.

Figure 4: Freight Forwarders' and Exporters' Knowledge of AES (Those Planning to Use AES)



Note: Figure applies to the 117 freight forwarders and 20 exporters that plan to use AES.

Benefits Cited by the Trade Community Do Not Outweigh Concerns

Companies and industry groups we spoke with cited certain benefits to getting on AES. The primary incentive mentioned was automating their export system. About 50 percent of the companies we surveyed that plan to use AES said that automation was an incentive to use AES. The other benefit voiced by over 15 percent of respondents was the potential for a single filing point for all export data, referred to as "one-stop filing" by Customs. In addition, those companies we interviewed that are already using AES said that they were doing so to reduce paperwork and personnel and associated administrative costs, take advantage of new automated initiatives, and participate in the development of AES.

While the cost of automation and lack of knowledge regarding AES were cited as possible impediments to AES participation by the export

community,¹¹ predeparture filing emerged as a key concern among some segments of this group. Our work indicates that whether or not predeparture filing posed a problem for businesses was related to the type of export or mode of transportation used to export.

According to industry groups and several companies' officials we interviewed, filing information predeparture is inconsistent with their business practices. These officials told us that they often do not know the precise volume and value of their final shipment until just before departure, which makes it difficult to file their paperwork on time. Predeparture filing was a particular concern for exporters of bulk goods or grain commodities. Some of these companies said that they would have to enter estimates in AES prior to departure and that the estimates would then have to be revised later, thereby resulting in rework. One exporter described this as having to do "twice the work."

Regarding carriers, all of the eight airlines and air couriers we spoke with said that meeting the predeparture filing requirement would present a problem for their current business operations; six said that they would not participate in AES due to this requirement. While the air couriers we interviewed said that they generally have the SEDs in hand prior to departure, because of the fast-paced nature of the air courier business they are unable to input SED data into AES before the aircraft departs. Representatives from both these industries told us that they anticipate having to input data into AES as a service to exporters and freight forwarders.

Representatives from companies participating in Customs' evaluation of AES, conducted in two vessel ports in 1996 before AES was expanded to all ports, indicated problems with predeparture filing. Representatives from some companies stated that 80 percent of the time they have all the information needed to complete the SED prior to departure of the vessel. However, for the remaining 20 percent of the time, they have difficulty in obtaining and providing predeparture data. In addition, the evaluation did not include airlines and air couriers, which have significant concerns regarding predeparture filing. It also did not include exporters of bulk commodities that have similar concerns.

¹¹Cost of automation was cited by 28 percent of freight forwarders not planning to use AES as a reason for not doing so. None of the exporters we surveyed cited cost as a reason for not getting on AES. (Current AES participants reported that their costs ranged from a \$50 setup fee and \$2.50 per AES transmission fee for filers using the Internet to \$250,000 for a company undergoing a complete conversion from manual to automated filing.) Lack of knowledge about AES was cited by 11 percent of freight forwarders and 36 percent of exporters we surveyed who did not plan to use AES.

Export industry groups also have repeatedly expressed concerns about the AES-PASS program, which allows exporters to file most of their export information postdeparture, but still requires companies to file some data prior to departure. Specifically, they have stated that AES-PASS will be costly and burdensome to exporters without providing much benefit to the government. For example, in a March 1997 letter to the Commissioner of Customs, a group of large exporters stated that AES-PASS requires exporters to bear a predeparture reporting burden for all shipments while doing "nothing to improve data collection or compliance." They stated that AES-PASS would require two submissions for a single shipment—both pre- and post-departure—resulting in additional programming of automated processes. In June 1997, the Trade Resource Group, the private advisory group to Customs on AES, expressed similar concerns in a letter to the Commissioner of Customs.

In response to the export community's continued dissatisfaction with AES requirements (particularly filing information predeparture via AES and/or AES-PASS), in June 1997 the Commissioner of Customs proposed that industry groups enter into formal negotiations with Customs to resolve issues of disagreement regarding AES. Customs has used such negotiations, which rely on an outside moderator, to resolve issues with the trade community in the past. According to Customs officials, this approach will provide a forum for the trade community and Customs to discuss, and potentially resolve, the outstanding issues of concern to both parties. Customs officials told us that they are uncertain as to when the negotiations will begin.

AES' Ability to Enhance Enforcement Is Currently Limited

AES is designed to provide a "smart targeting system" that would allow inspectors to focus their attention on possible illegal shipments among the thousands of exports leaving the country each day. For example, AES is designed to compile exporter histories, allow for trend analysis, and provide a prioritized list of targets for selective enforcement actions.¹² However, AES' ability to meet this objective is limited by four major factors. First, AES does not currently link with other law enforcement databases, such as those maintained by the Treasury; the Federal Bureau of Investigation; and the National Insurance Crime Bureau (which

¹²Currently, inspectors only receive general information on the exports in paper documents provided by the carrier. (Because SEDs are held by the carrier and not Customs inspectors, if an inspector wants to review an SED, he usually must request that the carrier fax it to the Customs port.) In addition to this information, inspectors also target shipments based on information provided from informants and other law enforcement agencies, and their own "gut instinct" based on years of experience.

maintains a database on stolen vehicles). Customs inspectors told us that AES would be a more effective enforcement tool if it linked with these databases, allowing inspectors to obtain information more quickly on exporters with prior export violations or on stolen vehicles that may be exported. Customs officials told us that they are considering trying to have AES link with other enforcement databases in the future, but that at present they have no definitive plans to do so. They noted that very few enforcement or administrative databases are directly linked to each other because of logistics, funding, and security concerns.

Second, AES-PASS will not provide adequate information to target shipments because it only requires a minimal amount of data prior to departure—the exporter identification number, a reference number for the shipment, and a few additional data elements, such as the license code and number if the export requires a license. It will not provide the detailed commodity data that inspectors told us they need for better enforcement. Because so little predeparture information is provided on AES-PASS, some inspectors we interviewed were concerned that AES-PASS would undermine any advantage that AES would have provided, for example, ready access to more detailed commodity data predeparture.

Third, AES allows SED information to be transmitted only hours before a shipment's departure (as with the current paper system), and inspectors told us that in most cases this is not sufficient time for targeting possible illegal shipments. While some inspectors told us that they would need SED information about 4 hours in advance of the carrier's departure in order to target shipments, others said they would need 24 hours. (We did not evaluate the feasibility of companies being able to file data within these time frames.) Finally, since participation in AES is voluntary, an illegal exporter is unlikely to use the system for filing export data. Inspectors at several ports told us that there is no incentive for exporters to get on AES, and others stated that they believe AES would need to be mandatory to be effective.

Most Other Agencies' Export Requirements Cannot Be Fully Satisfied by AES

According to both Census and Customs, AES has the potential to provide exporters with "one-stop shopping" by creating a single electronic filing center for all U.S. export data. AES was not designed to replace any agency's authority to regulate exports. The system was designed to serve as a source of export data for agencies with export requirements and to reduce redundancies in filing and paperwork associated with various export control requirements. However, AES is unlikely to achieve those

objectives because most agencies' export requirements cannot be fully satisfied through AES. For example, 8 of the 13 agencies¹³ identified by Customs as having regulatory authority over exports¹⁴ are not using AES to fulfill their export licensing or permit requirements because of existing regulations that require them to retain their own licensing procedures, including collecting information provided by the exporter. As a result, exporters will have to continue to apply to multiple agencies for approval to export certain commodities. (About 30 percent of all U.S. freight forwarders export goods that require export licenses.) For example, exporters seeking to ship products that have both civilian and military applications would still have to apply directly to the Commerce Department's Bureau of Export Administration for approval. In addition, exporters of chemicals and pharmaceutical drugs are required to apply directly to the Drug Enforcement Administration (DEA) 15 days prior to exportation in order for DEA to conduct an investigation.

Although AES is designed to eliminate the paper SED, it will not substantially reduce or eliminate agency paperwork or the electronic filing associated with the issuance of export licenses, certificates, or permits. For example, the Department of Agriculture's Food Safety and Inspection Service issues inspection certificates for agricultural exports that must accompany the shipment abroad, precluding the possibility of electronic filing through AES. In addition, DEA officials noted that they are governed by international conventions, to which the United States is a signatory, that mandate their use of internationally standardized paper licenses for exports of certain chemicals and pharmaceutical products.

According to Customs officials, there are several obstacles that prevent them from quickly achieving this goal. For example, many agencies lack sufficient staff or budgetary resources, have outdated regulations that may need to be changed, and/or are reluctant to share data with other agencies even though they may collect the same data. Customs recognizes that these obstacles will need to be overcome in order to have AES fully interface with other export-related agencies.

Despite these limitations, officials at three agencies with export reporting (rather than licensing) requirements—Census, the Maritime

¹³For two other agencies, other factors preclude their full use of AES: the Department of Energy's Office of Nonproliferation and National Security has export license review functions that will not be fully satisfied through AES; and the Environmental Protection Agency cannot use AES for other reasons (see p. 21).

¹⁴In 1994, Customs established a group, consisting of 13 U.S. government agencies, to determine each agency's procedures for regulating exports and the information each agency collects from the export community to fulfill its statutory and regulatory requirements.

Slow Progress in Developing Interfaces With Other Agencies

Administration, and the Energy Information Administration—indicate that AES has the potential to satisfy their needs. Specifically, it is expected to eliminate their paperwork processing and help them fulfill their reporting requirements. Several other agencies, including the Bureau of Export Administration, the Office of Foreign Assets Control, and the Office of Arms Control and Nonproliferation indicated that as designed, AES would provide a more efficient means to track and monitor cargo shipments against approved licenses. Currently, AES validates cargo against State Department and Bureau of Export Administration licenses.

Since 1994, Customs has tried to develop an automated interface with other government agencies to maximize opportunities to share export information through AES and streamline data collection. After Customs determines the feasibility of working with a particular agency, Customs seeks to (1) reach commitments to collaborate on their use of AES, (2) define and incorporate the informational requirements of these prospective users, and (3) conclude the process with a memorandum of understanding (MOU) that guides the implementation of the final interface.

Currently, only Census has signed an MOU with Customs legally stipulating each agency's responsibility for collecting, transmitting, and securing data captured in AES, in addition to cost-sharing arrangements. Customs has obtained written commitments from five other agencies to collaborate on AES. Some of the areas being discussed are data to be included in AES, information sharing and access, and the development of compatible information systems.¹⁵ Of these six agencies, Customs has completed and incorporated into AES the user requirements of Census, the Bureau of Export Administration, and the Office of Defense Trade Controls, specifying each agency's requirements for collecting and processing data. One reason that progress has been slow is that Customs has assigned only one full-time person to develop interfaces with other government agencies.

Other agencies have not committed to use AES for a variety of reasons. For example, according to officials at the Bureau of Alcohol, Tobacco, and Firearms, the agency lacks sufficient resources to develop a compatible automated system, and DEA has regulations that preclude its use of AES. Officials at the Environmental Protection Agency told us that they cannot use AES, as they do not currently have an agreement with Census to access SED data. Furthermore, although AES does include Nuclear Regulatory

¹⁵None of the agencies that issue licenses, certificates, or permits have agreed to transfer their license application data through AES.

Commission license codes in order to validate licensed shipments, agency officials indicated that the agency already has an automated information system that meets its needs. (See fig. 5.)

Figure 5: Status of Customs' Agreements With Export-Related Agencies

Agencies	Signed commitments to collaborate on AES	User requirements incorporated into AES	Signed memorandum of understanding to implement system interface
Bureau of Alcohol, Tobacco and Firearms			
Bureau of Export Administration	●	●	
Bureau of the Census	●	●	●
Defense Security Assistance Agency			
Drug Enforcement Administration			
Energy Information Administration			
Environmental Protection Agency			
Food Safety and Inspection Service			
Maritime Administration	●		
Office of Nonproliferation and National Security	●		
Nuclear Regulatory Commission			
Office of Defense Trade Controls	●	●	
Office of Foreign Assets Control	●		

It has been well documented that successful information systems require the continuing involvement and commitment of senior executives.¹⁶ In this case, where the concept of AES entails integrating the export reporting functions of 14 separate federal agencies, extensive high-level coordination and exchange are not presently in place to explicitly define what export reporting and/or licensing requirements can or cannot be

¹⁶See Executive Guide: Improving Mission Performance Through Strategic Information Management and Technology (GAO/AMD-94-115, May 1994).

accommodated by AES and what distinct licensing and/or reporting requirements must remain.

Conclusions

The quality of export data has been a long-term problem. AES represents a major initiative to improve the quality of export data that is used to negotiate trade agreements and enforce export laws and regulations. While the trade community believes export data needs to be automated, the reluctance of U.S. companies to participate and the uncertainty that other agencies will be able to interface with AES raise serious questions about the system's viability. In addition, Customs' planned use of AES as an enforcement tool is limited because AES is not currently linked to other law enforcement databases, and AES-PASS allows approved exporters to file almost all of their export data post-departure. We question whether AES will be able to meet its objectives without greater involvement of top management in resolving the operational and implementation problems we have identified. We believe the Commissioner of the U.S. Customs Service and the Director of the U.S. Census Bureau need to devote sustained management attention to AES. Specifically, these officials need to expeditiously assess the extent to which the export community's concerns can be addressed, the likely amount of participation in AES, the likely usefulness of AES in enhancing enforcement, and the extent to which other agencies will be able to use AES. In making this assessment, attention needs to be given to determining whether

- predeparture filing of export data is critical to improved export statistics and enforcement of U.S. laws and regulations and, if so, how far in advance inspectors need the information for AES to be an effective enforcement tool;
- a link between AES and the databases of law enforcement agencies can be achieved;
- allowing some exporters to file SEDs after departure would undermine the objective of achieving improved export data and/or render AES ineffective as an enforcement tool; and
- the requirements of other agencies can be modified or otherwise accommodated to permit their use of AES.

Once this assessment is done, we believe the agencies need to consider how or whether to proceed with implementing AES. If these problems are not resolved in the near future, we are concerned that Customs will continue to invest significant monies in a system that is likely to be of limited benefit.

Recommendations

We recommend that the Secretaries of the Treasury and of Commerce direct the Commissioner of the U.S. Customs Service and the Director of the Bureau of the Census to delineate the concrete actions needed to improve AES' potential, and, after doing so, assess the costs and benefits of continuing to implement AES.

Agency Comments

A draft of this report was provided to Customs and Census. While Customs agreed that AES should interface with other enforcement and export data bases and that AES-PASS should be reevaluated in light of its potential adverse effect on enforcement efforts, both agencies said that they believed our assessment of the level of participation in AES was premature. They said that early in the system's development, they decided to use a phased implementation approach. They also noted that participation in AES has increased since it was expanded to all modes of transportation in July 1997 and they expect participation to be greater in the future. However, they did not address our recommendation or specify the actions they plan to take to overcome obstacles to AES' success.

We disagree with Census and Customs view that our assessment of AES is premature. We believe our work provides important insights into issues that will affect AES' success and that Customs and Census need to develop a strategy to address these issues. On the critical issue of participation, our survey revealed strong resistance among the export community that has serious implications for future participation. Unless AES achieves high participation and provides an interface among agencies with enforcement and export responsibilities, it is difficult to envision how the system can meet its objectives. We, therefore, continue to believe that Customs and Census should identify the specific actions needed to improve AES' potential, and, after doing so, assess the cost and benefits of continuing to implement AES.

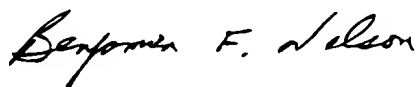
Census also expressed concern that the results from our surveys and interviews were not presented in such a way that the reader can determine the significance of the responses and that our work does not reflect the views of the entire export trade community. We used a variety of techniques to obtain the export community's views regarding AES, including a nationally representative sample survey of 400 ocean freight forwarders. Our survey was necessarily limited to ocean freight forwarders because AES had not been extended to other modes of transportation. We believe that the results from this survey when combined with those from our survey of the top 80 exporters that file

paper SEDS, as well as in-depth interviews with 30 exporting companies and 14 of the top AERP filers, provides a reasonable basis on which to assess the views of a broad cross section of the export community regarding AES. We did not suggest that our assessment was based on a survey of the entire export community. Moreover, Census did not offer any studies that produced results that were inconsistent with what we found. (See app. IV for specific details on our scope and methodology.)

As agreed with your office, unless you publically announce the contents earlier, we plan no further distribution of this report until 2 days after its issue date. At that time, we will provide copies of the report to appropriate congressional committees and the Commissioner of the U.S. Customs Service and the Director of the Bureau of the Census. We will also make copies available to other interested parties on request.

This review was done under the direction of JayEtta Z. Hecker, Associate Director. If you or your staff have any questions concerning this report, please contact Ms. Hecker at (202) 512-8984. Major contributors to this report are listed in appendix VII.

Sincerely yours,



Benjamin F. Nelson,
Director, International Relations
and Trade Issues

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Abbreviations

ABI	Automated Broker Interface
AERP	Automated Export Reporting Program
AES	Automated Export System
AES-PASS	Automated Export System Post-Departure Authorized Special System
DEA	Drug Enforcement Administration
FOB	free on board
IOU	"I owe you"
MOU	memorandum of understanding
NVOCC	Non-Vessel Operating Common Carrier
SED	Shipper's Export Declaration

Six Other Countries' Export Data Collection Systems

We obtained information from officials in six countries—Australia, Canada, Japan, South Korea, Mexico, and the United Kingdom—on their export procedures and systems for collecting export data. (The information we collected from these countries was self-reported by these countries—we did not independently verify any information we obtained.) Almost all of these countries reporting having implemented automated systems for collecting export data, and most countries reported that nearly 100 percent of their export data is collected via their automated systems. Most countries' automated systems are voluntary and were automated within the last 5 years. These countries require that at least some export information be filed prior to departure. Further, almost all of the countries use their automated system in some way as a targeting tool to help with the control and enforcement of the countries' export laws.

Five of the six countries from which we obtained information have implemented an automated system to collect their export data (Australia, Japan, South Korea, Mexico, and the United Kingdom); Canada is currently piloting an automated system to collect export data (see table I.1). With the exception of Mexico,¹ all countries' automated systems are voluntary (including Canada's new system). As an alternative to electronic filing, exporters in Australia, Canada, Japan, and the United Kingdom can file paper export declarations. Most of these countries' automated systems were implemented in the 1990s, although Australia and Japan have had at least a partially automated system in place since the mid- to late-1980s.

Most countries require that exporters or their agents file at least some information prior to departure. Japan requires that all export data be submitted prior to departure. Australia, Canada, South Korea, Mexico, and the United Kingdom, however, allow approved exporters to wait to file some of their information after departure. Australia requires that approved exporters file an export report as soon as the information is available; Canada requires that exporters file a report up to 5 days after the month of departure; South Korea requires that a report be filed within a day of departure; Mexico generally requires that a report be filed within a week of departure; and the United Kingdom requires exporters to file a completed report within 14 days of departure.

All of the countries, with the exception of the United Kingdom, use their automated system to help control exports and target goods for inspection

¹Mexico requires that exporters use agents, called Customs brokers, to file export data on exporters' behalf. The Customs brokers must submit all export data electronically.

Appendix I
Six Other Countries' Export Data Collection
Systems

(Canada plans to use its system for this purpose). Some countries, such as South Korea and Japan, use pre-set criteria for targeting goods for inspection. Mexico's automated system, on the other hand, randomly selects shipments for inspection.

Appendix I
Six Other Countries' Export Data Collection
Systems

Table I.1: Characteristics of Six Countries' Export Data Collection Systems

Characteristics	Australia	Canada	Japan
Method of data collection (paper or automated system)	Paper and voluntary automated system	Paper and currently piloting voluntary automated system	Paper and voluntary automated system
Year of automation	1988	Not available	Air cargo: 1985; sea cargo: 1992
Percent of export data captured via system or percent of export community using automated system	98 percent	Not available	Over 90 percent
Time frame for data filing	Predeparture, with optional post-departure filing for approved exporters (this option generally open only to certain bulk and agricultural shippers, but requires some information be filed predeparture)	(1) Paper: air, truck, rail - predeparture; ocean - pre- and post-departure; (2) Automated system: predeparture, with optional post-departure filing for approved exporters	Predeparture
Required export information	^a	^b	^c
Use of automated system for targeting	Yes, system used to monitor exporters' compliance and as targeting tool	Yes, system's plans include targeting shipments for examination	Yes, system used to help select goods that should be examined or inspected
Deadline for goods to be at port	No Customs requirement for goods	None	None
Annual value of exports	(1995-96) \$59 billion	(1996) \$202 billion	(1995) \$443 billion

Appendix I
Six Other Countries' Export Data Collection
Systems

Characteristics	South Korea	Mexico	United Kingdom
Method of data collection (paper or automated system)	Voluntary automated system	Mandated automated system	Paper and voluntary automated system
Year of automation	1996	1992-93	1992
Percent of export data captured via system or percent of export community using automated system	Almost 100 percent (export community participation level)	100 percent	20 percent
Time frame for data filing	Predeparture, with optional post-departure reporting for bulk cargo and perishable goods (requires some information be provided prior to departure)	Predeparture, with optional post-departure filing program (requires that invoice information still be presented upon export)	Predeparture, with optional post-departure filing for approved exporters (this option is open to both paper and electronic filers but requires some information be filed predeparture)
Required export information	^d	^e	^f
Use of automated system for targeting?	Yes, system designed for targeting; improvements being made to targeting ability	Yes, system randomly selects shipments for inspection, as well as inspectors to examine shipments	No
Deadline for goods to be at port	Goods required at warehouse 24 hrs. before loading	Shipments must arrive to Customs within 24 hours after automated system validates transaction	Deadlines set locally at Customs ports
Annual value of exports	(1996) \$130 billion	(1996) \$96 billion	(1996) \$113 billion ^g

(Table notes on next page)

Appendix I
Six Other Countries' Export Data Collection
Systems

^a(Australia) Reference number; type of export; establishment code; owner's name; owner's phone number; consignee's name; consignee's city; country of destination; port of loading; port of discharge; invoice currency; total free-on-board (FOB) value; intended date of export; number of F.C.L. containers, if applicable; mode of export; ship/aircraft identity; number of packages; commodity classification code; origin code; goods description; net quantity; gross weight; container type; coal, thermal use indicator; assay details; container number and seal number, if applicable; permit details, including permit number and encryption code; information on whether goods are subject to certain export concession arrangements, FOB value; and signature.

^b(Canada) Information required for paper filing generally includes exporter name and address; consignee name and address; exporter's business number; country of final destination; province and country of origin of goods; export permit number; description of goods; harmonized tariff system code of goods; quantity and unit of measure; value; signature of responsible party; mode of transportation; and reason for export. Goods exported by sea can be reported in a predeparture interim report that must include the following information: exporter name, address, and business number; consignee name and address; country/province of origin of goods, country of final destination; number of packages; description of goods; and, if containerized, container number.

^c(Japan) User code; exporter code, name, and address; trading pattern code; airway bill or bill of lading number; description, number, quantity, value, and statistical code numbers of goods; destination and its code number; loading and storage place code; airline code, or name and nationality of vessel; and scheduled departure date.

^d(South Korea) Forty-four items, including declarant; manufacturer; exporter name; buyer; value/quantity of goods; destination; consignee; letter of credit number; and weight.

^e(Mexico) Sixty-two data items, including information on the exporting company and its location; goods' quantity, value, and classification; transport company name and location; and data of the foreign trade transaction. Invoice information that must be provided upon export in paper form must contain the name of the exporting company; taxpayer identification number; date and number of the invoice; a general description, quantity, and value of the goods; information on the vehicle transporting the merchandise; number of the consolidated entry; name and signature; and number and license of the Customs broker.

^f(United Kingdom) Filing requirements depend on the procedure being used, but a completed declaration via the automated system generally includes consignor/exporter; number of items declared; total packages; reference number; name and address of person or company making the declaration; code for country of ultimate destination; information on shipment container, if appropriate; identify and nationality of active means of transport crossing the border; mode of transport at the border; place of loading; location of goods; packages and description of goods, including marks and numbers, container numbers, and number and kind of goods; item number; tariff classification commodity code; net weight; any additional information, documents produced, certificates and authorizations; and value of goods. Participants in the U.K. automated system post-departure filing program generally must file the following information predeparture: name and address of exporter or agent; brief commercial description of goods; number and kind of packages/goods; marks and numbers on packages; net weight; and any additional information, documents produced, certificates, and authorizations.

^gExcludes exports to other members of the European Community.

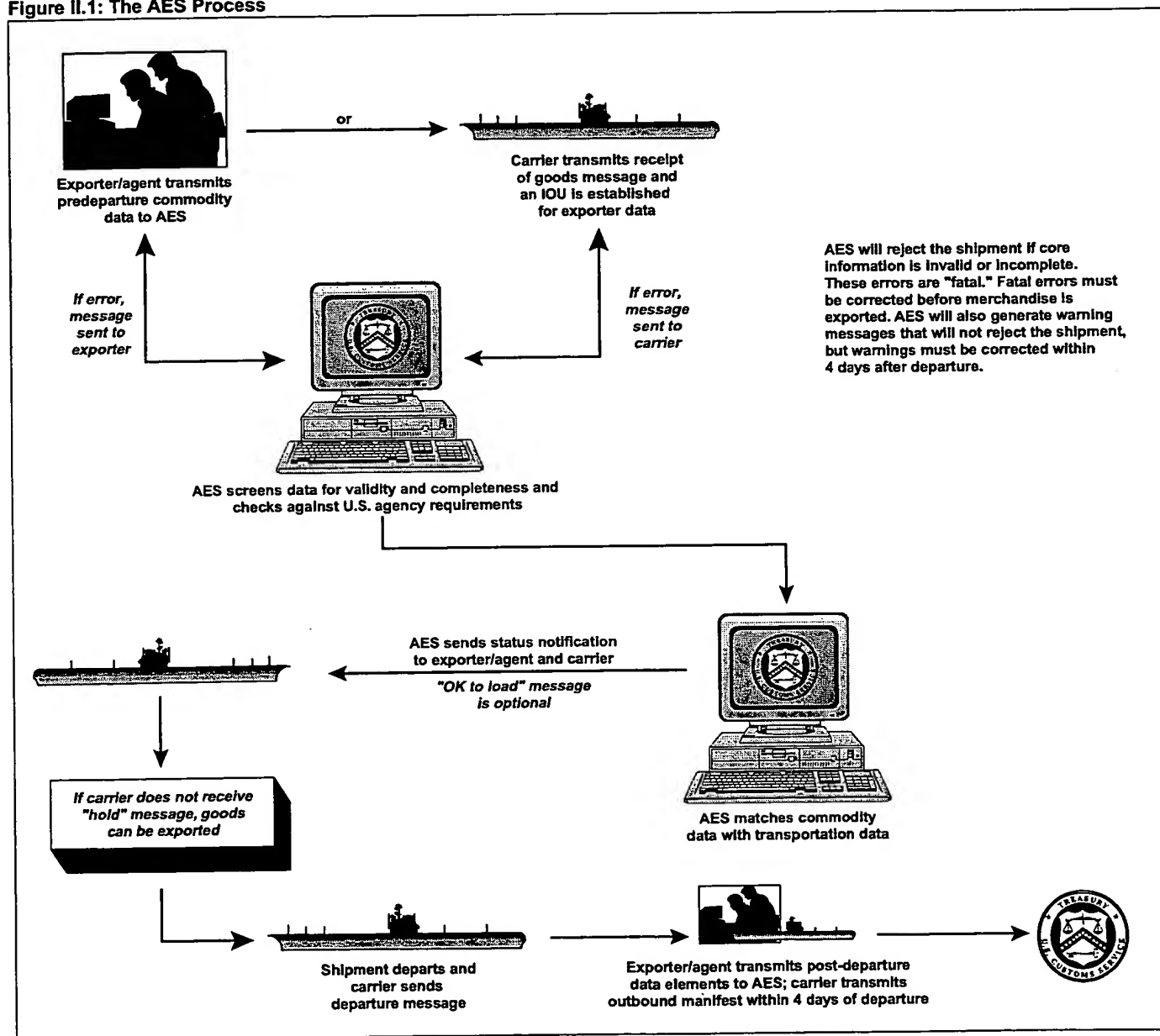
Source: Data provided by Australia, Canada, Japan, South Korea, Mexico, and the United Kingdom.

The Automated Export System Process

As currently implemented, the Automated Export System (AES) allows exporters or their agents to electronically transmit Shipper's Export Declaration (SED) information directly to Customs. The process begins when either the exporter or agent transmits commodity data directly into AES or when the carrier transmits a receipt of goods message. (AES participants can transmit their commodity data either by developing their own software, using software from various AES-certified software vendors, via the Internet, or using facilities of a port authority or service center.) If the carrier transmits data via AES before the exporter, an "I owe you" (IOU) is established noting that the exporter has not yet transmitted commodity data. The commodity data passes through built-in edits that check for accurate and complete information and match it against U.S. agency requirement files. The system also matches commodity data sent by the exporter with transportation data (such as the name and flag of the vessel) sent by the carrier. The carrier is free to load the cargo unless it receives a "hold" message. AES will reject the shipment if core information, such as the commodity code, country name, or exporter name is invalid or incomplete. These "fatal errors" must be corrected before merchandise is exported. (See fig. II.1.)

Appendix II The Automated Export System Process

Figure II.1: The AES Process



Source: U.S. Customs Service.

Results of Freight Forwarder and Exporter Surveys

Provided in the following section are questions and responses for our surveys of 400 U.S. freight forwarders and Non-Vessel Operating Common Carriers (NVOCC) and 80 U.S. exporting companies that file paper SEDs. All results are reported as percentages, and for each question, we present the number of respondents answering the question. (Certain questions were only to be answered by a subset of respondents, that is, those possessing a certain characteristic or giving a particular answer to a previous question.) For questions requesting a numerical answer (such as the number of employees) we present descriptive statistics, such as the median and the range of responses. In addition, for several questions where we report in the letter on the subset of respondents who plan to use AES, we provide results both for this subset group and for all respondents.

Appendix III
Results of Freight Forwarder and Exporter
Surveys

GAO
Computer-Assisted Telephone Interview System

Automated Export System
Survey of Freight Forwarders

Introduction

Hello, this is [STATE YOUR NAME], calling from the U.S. General Accounting Office. Senator Orrin Hatch, Chairman of the Senate Judiciary Committee, has asked us to obtain the views of the export community regarding the Customs Service's new Automated Export System, AES, and to collect information on company export practices which may be affected by AES.

Your company has been chosen as part of a nationally representative sample of freight forwarders and NVOCCs for this study. The survey should take about 5 to 10 minutes of your time. We will need to speak with the individual in your company most familiar with your company's current and future export documentation procedures for the survey.

Confirmation of Sample Eligibility

We need some basic company background information in order to describe the kinds of companies we talked with in our survey report for the Congress. So, before we discuss AES, I'd like to ask some questions about the levels and kinds of export activities your company engages in and the approximate size of your company.

1. At any time from the beginning of 1996 through the present, did your company provide freight forwarding services to companies exporting products from the U.S.?

Yes	91.2 ¹
No	8.8

¹All results are reported as percentages.

Appendix III
Results of Freight Forwarder and Exporter
Surveys

N² = 329

2. At any time from the beginning of 1996 through the present, did your company also provide Non-Vessel Operating Common Carrier (NVOCC) services to companies exporting products from the United States?

Yes 64.3

No 35.7

N = 328

All respondents who answered "No" to Q.1 must answer "Yes" to Q.2 to proceed with the survey. Those who answered "No" to both questions 1 and 2 were routed out of the survey and do not appear anywhere in this report.)

3. About what percentage of your company's export business, if any, would you say currently involves goods exported to Canada? Your best estimate will suffice.

MEDIAN ³	0
RANGE (Minimum and Maximum)	0 - 100
INTERQUARTILE RANGE ⁴	1

Don't know 0

N = 329

Company Activities and Characteristics

4. In addition to exporting products by sea, does your company also provide services to clients exporting by air?

²Number of companies responding to the question.

³The median is the middle measurement when the items are arranged in order of size, or if there is no middle one, then the average of the two middle ones. If five students make the grades of 15, 75, 80, 95 and 100, the median is 80.

⁴The interquartile range is the distance between the first and third quartiles of a distribution. It covers the middle half of the values in the frequency distribution.

**Appendix III
Results of Freight Forwarder and Exporter
Surveys**

Yes 84.5
No 15.5

N = 328

Company Size and Composition

5. I'd also like some information about the size of your company. About how many employees (full-time equivalents) does your company have? Your best estimate will suffice.

MEDIAN	6
RANGE	1 - 60,000
INTERQUARTILE RANGE	12
SUM	86,879

Don't know 1.2

N = 329

6. And approximately what would you say your company's gross revenues (or sales) were for 1996? Your best estimate will suffice.

MEDIAN	\$1.25 million
RANGE	7,000 - 1.8 billion
INTERQUARTILE RANGE	4.5 million
SUM	4.64 billion

Don't know 35.0

N = 329

7. About what percentage of your company's total business is involved in the EXPORT trade?

MEDIAN	80
RANGE	0 - 100
INTERQUARTILE RANGE	55

Don't know 0.9

Appendix III
Results of Freight Forwarder and Exporter
Surveys

N = 329

8. About how many companies (clients) did your company provide export services for during 1996?

MEDIAN	50
RANGE	1 - 50,000
INTERQUARTILE RANGE	130
SUM	132,033

Don't know 14.9

N = 329

- 1Ag Since the beginning of 1996, did your company export goods that required an export license?

Yes	30.7 ⁶
No	69.3

N = 329

- 2Ag Aside from export license and Census Bureau and Customs Service paperwork, did any of your exported goods involve reporting requirements to any other federal agencies since the beginning of 1996?

Yes	19.6
No	80.4 (GO TO Q. Ins)

N = 326

- 3Ag Which agencies had reporting requirements?

Agriculture Department	42.2
State Department	25.0
Commerce Department	14.1
Nuclear Regulatory Commission	0

⁶The confidence interval width for question 1-Ag is ± 5.1 percent.

Appendix III
Results of Freight Forwarder and Exporter
Surveys

Other (List below) 67.2

N = 64

Ins During the last 3 years, that is, since 1994, were any of your export shipments inspected by the Customs Service?

Yes 49.5

No 50.5

N = 327

Im1 Does your company also act as import broker for companies importing products into the United States?

Yes 35.9

No 64.1 (GO TO Q.9)

N = 329

Im2 Does your company use the Customs Service's Automated Broker Interface (ABI) system to submit your import data?

Yes 84.7

No 13.6

Don't know 1.7

N = 118

AUTOMATED EXPORT SYSTEM (AES)

9. The Customs Service is now implementing the Automated Export System (AES) to collect and process data for all parties involved in export trade. Have you ever heard of this system?

Yes 75.1⁶

No 24.9 (GO TO Q. 22)

⁶The confidence interval width for question 9 is ± 4.8 percent.

Appendix III
Results of Freight Forwarder and Exporter
Surveys

N = 329

All respondents saying that they had not heard of AES and those expressing a desire for more information about AES were given Customs contact information.

11. Has anyone from the Customs Service or any other federal agency contacted your company regarding AES?

Yes 26.7
No 73.3

N = 247

12. I'd like to know your company's plans, if any, regarding AES. Does your company plan to use AES to submit your required export data?

Yes 47.6⁷
No 18.7 (GO TO Q. 21)
Company hasn't decided 24.8
Don't know 8.9 (GO TO Q. 14)

N = 246

13. How would you describe the status of your company's involvement with AES?

All Eligible Respondents

Are you currently:

Studying AES	53.9 ⁸
Planning to file a letter of intent with Customs	10.1

⁷The confidence interval widths for question 12 were the following: ± 6.4 percent (yes); ± 5.0 percent (no); ± 5.5 percent (company hasn't decided); and ± 3.6 percent (don't know).

⁸The confidence interval widths for question 13 were the following: ± 7.5 percent (studying AES); ± 4.5 percent (planning to file a letter of intent with Customs); ± 2.2 percent (have filed a letter of intent with Customs); and ± 1.2 percent (currently testing AES), ± 6.4 percent (other), and ± 4.4 percent (can't say/don't know).

Appendix III
Results of Freight Forwarder and Exporter
Surveys

Have filed a letter of intent with Customs	2.2
Currently testing AES	0.6
Other (Specify)	23.6
Can't say/Don't know	9.6

N = 178

Those That Plan to Use AES

Studying AES	53.8
Planning to file a letter of intent with Customs	14.5
Have filed a letter of intent with Customs	3.4
Currently testing AES	0.9
Other (Specify)	19.7
Can't say/Don't know	7.7

N = 117

14. What incentives, if any, do you see for going on AES?
(DO NOT read list. Click all that respondent volunteers)

All Eligible Respondents

None	21.0	(GO TO Q. 15)
One-stop filing	15.5	
Cost savings for company	9.0	
Convenience of automation	45.5	
Better trade statistics	7.5	
Other (Specify)	40.0	

N = 200

Those That Plan to Use AES

None	17.1	(GO TO Q. 15)
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Appendix III
Results of Freight Forwarder and Exporter
Surveys

One-stop filing	19.7
Cost savings for company	9.4
Convenience of automation	45.3
Better trade statistics	11.1
Other (Specify)	46.2

N = 117

15. I'd like your views about incentives for using AES mentioned by others. Do you view [ASK FOR EACH LISTED BELOW] as an incentive for your company to go on AES or not? (Each item was asked of respondents NOT volunteering the item in Q. 14. Results displayed include those who volunteered the item in question 14.)

A. One-stop filing

Volunteered	15.5⁹
Yes	55.5
No	12.5
Don't know	16.5

N = 200

B. Cost savings for company

Volunteered	9.0¹⁰
Yes	43.5
No	26.0
Don't know	21.5

N = 200

⁹The confidence interval widths for question 15A were the following: ± 5.1 percent (yes); ± 7.0 percent (no); ± 4.7 percent (company hasn't decided); and ± 5.2 percent (don't know).

¹⁰The confidence interval widths for question 15B were the following: ± 4.0 percent (yes); ± 7.0 percent (no); ± 6.2 percent (company hasn't decided); and ± 5.8 percent (don't know).

Appendix III
Results of Freight Forwarder and Exporter
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C. Convenience of automation

Volunteered	45.0¹¹
Yes	43.0
No	5.5
Don't know	6.5

N = 200

D. Better trade statistics

Volunteered	7.5¹²
Yes	56.8
No	22.6
Don't know	13.1

N = 200

16. About how much would you estimate it would cost your company to implement AES; if you chose to do so? (Asked of those planning to use AES or whose companies had not yet decided whether to use AES.)

All Eligible Respondents

MEDIAN	\$6,500
RANGE	200 - 500,000
INTERQUARTILE RANGE	11,500

Don't know 67.0

N = 178

Those That Plan to Use AES

MEDIAN	\$7,500
RANGE	200- 90,000
INTERQUARTILE RANGE	16,000

Don't know 66.4

N = 117

¹¹The confidence interval widths for question 15C were the following: ± 7.0 percent (yes); ± 7.0 percent (no); ± 3.2 percent (company hasn't decided); and ± 3.5 percent (don't know).

¹²The confidence interval widths for question 15D were the following: ± 3.7 percent (yes); ± 7.0 percent (no); ± 5.9 percent (company hasn't decided); and ± 4.8 percent (don't know).

Appendix III
Results of Freight Forwarder and Exporter
Surveys

17. About when do you plan to start using AES? (Asked of those planning to use AES.)¹³

Date Given: 7/97 - 1/2000 49.6

Don't know 50.4

N = 117

18. And about how long do you think it would take for your company to implement AES? (Asked of those whose companies had not yet decided whether to use AES.)

Range of Responses

MONTHS 1 - 6

YEARS 1 - 5

BY (DATE) 9/97 - Sometime in 1998

Don't know 52.5

N = 61

Automated Export System Post-Departure Authorized Special System (AES-PASS)

19. Are you familiar with AES-PASS? (Asked of those planning to use AES or whose companies had not yet decided whether to use AES.)

All Eligible Respondents

Those That Plan to Use AES

¹³Two questions were asked about the timing of AES implementation: those planning to use AES were asked to estimate a date (Q.17); those whose companies had not yet decided whether to use AES were asked about how long it would take for their companies to implement AES (Q.18).

Appendix III
Results of Freight Forwarder and Exporter
Surveys

Yes 15.3¹⁴
No 84.7 (GO TO Q.22)

N = 177

Yes 17.9
No 82.1 (GO TO Q.22)

N = 117

20. Is your company likely to apply for AES-PASS status? (Asked of those who were familiar with AES-PASS and who plan to use AES or whose companies had not yet decided whether to use AES.)

Yes 48.1 (GO TO Q.22)
No 51.9 (GO TO Q.22)

N = 27

21. Why does your company not plan to use AES?
(DO NOT read list. Click all that respondent volunteers) (Asked of those who say they will not use AES.)

Lack of knowledge about AES 10.9 (GO TO Q. 22)

(Reasons spontaneously volunteered)

Predeparture filing requirement	2.2
Cost of automation	28.3
Personnel cost	2.2
Company hardware or software incompatibility with AES	0
Concerns about the amount of information required by AES	0
Concerns about how the information will be used by Customs	0
Concerns about privacy protection of information	0
Other (Specify)	69.6

N = 46

¹⁴The confidence interval width for question 19 (all eligible respondents) is ± 5.4 percent.

Appendix III
Results of Freight Forwarder and Exporter
Surveys

I'd like your views about some concerns mentioned by others in using AES.
(Each item was asked of respondents who did not mention lack of knowledge
above and who did NOT volunteer the item in Q. 21. Results displayed include
those who volunteered the item in question 21 above.)

21a Are you concerned or not about the predeparture SED filing requirement
of AES?

Volunteered	2.6
Yes	43.6
No	51.3
Don't know	2.6

N = 39

21b Are you concerned or not about the cost of automation necessary for
your company to get on AES?

Volunteered	33.3
Yes	30.8
No	28.2
Don't know	7.7

N = 39

21c Are you concerned or not about the amount of information required by
AES?

Volunteered	0
Yes	20.5
No	46.2
Don't know	33.3

N = 39

21d Are you concerned or not about how the information will be used by
Customs?

Volunteered	0
Yes	15.4

Appendix III
Results of Freight Forwarder and Exporter
Surveys

No	79.5
Don't know	5.1

N = 39

21e Are you concerned or not about privacy protection of information?

Volunteered	0
Yes	41.0
No	56.4
Don't know	2.6

N = 39

Shippers' Export Declaration (SED) Preparation and Filing

Next, we'd like to know how your company currently prepares some of its export-related paperwork. There are a number of ways a company may prepare and file the SED with the Census Bureau. I'd like to ask you about the methods you used during the past year.

22. First, about what percentage of your export shipments required the filing of an SED during 1996? Your best estimate will suffice.

MEDIAN	90
RANGE	0 - 100
INTERQUARTILE RANGE	28

Don't know 3.3

N = 329

23. Did your company submit all of the SEDs for those shipments to Customs or did someone else also submit SEDs for those shipments?

We submitted all SEDs	86.2 (GO TO Q. 25)
Someone else submitted all or some of the SEDs	13.8

N = 326

Appendix III
Results of Freight Forwarder and Exporter
Surveys

24. About what percentage of the SEDs for your shipments did YOUR company submit to Customs in 1996? (Results displayed include respondents who answered "We submit all SEDs" to Q.23, scored as submitting 100 percent.)

MEDIAN	100
RANGE	0 - 100
INTERQUARTILE RANGE	0

Don't know 0.6

N = 329

25. How did your company submit its SEDs during 1996: Using paper SEDs, the Automated Export Reporting Program (AERP), AES, or an Internet-based company linked to AES? (click all that apply) (Results displayed include only respondents who submit SEDs.)

Paper	96.9
AERP	3.1
AES	0.6
Internet	0

N = 318

For AERP Users Only:

26. The Census Bureau plans on phasing out the AERP system by the end of 1999. How does your company plan to submit its SEDs once the AERP system is no longer available? (Click all that apply)

Company will use AES	50.0
Company will use an Internet service	0
No plans yet	30.0
Submit paper SEDs	10.0
Have the customer submit SEDs	0
Other (specify)	10.0

N = 10

**Appendix III
Results of Freight Forwarder and Exporter
Surveys**

For Paper SED Filers Only:

Business Computer Use

27. Does your company use a computer to manage any or all of its export-related record keeping? (Results displayed exclude paper filers who also file SEDs electronically.)

Yes 76.4
No 23.6

N = 305

And finally, we'd like to know about the filing of your export paperwork and the timing of your export shipments.

28. How difficult, if at all, was it for your company last year (1996) to file its paper SEDs with the carrier prior to departure of the goods?

(Read each response option and click one)

Of very great difficulty	4.6
Of great difficulty	6.2
Of moderate difficulty	11.4
Of some difficulty	16.6
Of little or no difficulty	61.2

N = 307

29. During the last year (1996), did your company deliver ANY SEDs to the carrier following departure of the goods? Do not include any submitted through AERP.

Yes 43.0¹⁶
No 57.0

N = 307

¹⁶The confidence interval width for question 29 is ± 5.7 percent.

Appendix III
Results of Freight Forwarder and Exporter
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30. About how many of your SEDs were delivered after departure of the goods?

MEDIAN	10
RANGE	0 - 100
INTERQUARTILE RANGE	45

Don't know 4.6

N = 130

Ask All:

That concludes our interview. Thank you for your time and your cooperation. If there is any other aspect of AES you'd like to comment on, please feel free to do so now.

GAO
Computer-Assisted Telephone Interview System

AES
Survey of Exporters

Introduction

This is [STATE YOUR NAME], of the U.S. General Accounting Office. Senator Orrin Hatch, Chairman of the Senate Judiciary Committee, has asked us to obtain the views of the export community regarding the Customs Service's new Automated Export System, AES, and to collect information on company export practices which may be affected by AES.

Your company has been chosen as part of a study of exporters who have filed export documentation with the Census Bureau in paper form. The survey should take about 5 to 10 minutes of your time. We need to speak with the individual in your company most familiar with your company's current and future export documentation procedures for the survey.

Company Activities and Characteristics

We need some basic company background information in order to describe the kinds of companies we talked with in our survey report for the Congress. So, before we discuss AES, I'd like to ask some questions about the kinds of export activities your company engages in and the approximate size of your company.

1. First, we'd like to know how your company exports products. Does your company export products by air?

Yes 76.2
No 23.8

N = 63

2. Does your company export products by sea?

Yes 77.8
No 22.2

Appendix III
Results of Freight Forwarder and Exporter
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N = 63

3. Does your company export products by means other than air or sea, such as truck or rail?

Yes 76.2
No 23.8

N = 63

5. Next, I'd also like some information about the size of your company. About how many employees (full-time equivalents) does your company have? Your best estimate will suffice.

MEDIAN	2,200
RANGE	6 - 647,000
INTERQUARTILE RANGE	7,205
SUM	1,610,598

Don't know 11.1

N = 63

6. And approximately what would you say your company's gross revenues (or sales) were for 1996? Your best estimate will suffice.

MEDIAN	\$1.65 billion
RANGE	100,000 - 164 billion
INTERQUARTILE RANGE	7.6 billion
SUM	424 billion

Don't know 39.7

N = 63

7. About what percentage of your company's total business is involved in the EXPORT trade?

MEDIAN	51
RANGE	1 - 100
INTERQUARTILE RANGE	40

Appendix III
Results of Freight Forwarder and Exporter
Surveys

Don't know 20.6

N =63

1Ag Since the beginning of 1996, did your company export goods that required an export license?

Yes 52.4

No 47.6

N = 63

2Ag Aside from export license and Census Bureau and Customs Service paperwork, did any of your exported goods involve reporting requirements to any other federal agencies since the beginning of 1996?

Yes 39.7

No 60.3 (GO TO Q. Ins)

N = 63

3Ag Which agencies had reporting requirements?

Agriculture Department	24.0
State Department	44.0
Commerce Department	36.0
Nuclear Regulatory Commission	0
Other (List below)	44.0

N = 25

Ins During the last 3 years, that is, since 1994, were any of your export shipments inspected by the Customs Service?

Yes 46.8

No 53.2

N = 62

**Appendix III
Results of Freight Forwarder and Exporter
Surveys**

Im1 Does your company also import products into the United States?

Yes 90.5
No 9.5 (GO TO Q.9)

N= 63

Im2 Does your company use the Customs Service's Automated Broker Interface (ABI) system to submit import data?

Yes 31.6
No 42.1
Don't know 26.3

N = 57

AUTOMATED EXPORT SYSTEM

9. The Customs Service is now implementing the Automated Export System (AES) to collect and process data for all parties involved in export trade. Have you ever heard of this system?

Yes 77.8
No 22.2 (GO TO Q. 22)

N = 63

All respondents saying that they had not heard of AES and those expressing a desire for more information about AES were given Customs contact information.

11. Has anyone from the Customs Service or any other federal agency contacted your company regarding AES?

Yes 40.8
No 59.2

N = 49

Appendix III
Results of Freight Forwarder and Exporter
Surveys

12. I'd like to know your company's plans, if any, regarding AES. Does your company plan to use AES to submit your required export data?

Yes	40.8
No	22.4 (GO TO Q. 21)
Company hasn't decided	20.4
Don't know	16.3 (GO TO Q. 14)

N = 49

13. How would you describe the status of your company's involvement with AES?

All Eligible Respondents

Are you currently:

Studying AES	50.0
Planning to file a letter of intent with Customs	16.7
Have filed a letter of intent with Customs	3.3
Currently testing AES	0
Other (Specify)	23.3
Can't say/Don't know	6.7

N = 30

Those That Plan to Use AES

Are you currently:

Studying AES	45.0
Planning to file a letter of intent with Customs	20.0
Have filed a letter of intent with Customs	5.0
Currently testing AES	0
Other (Specify)	25.0
Can't say/Don't know	5.0

N = 20

Appendix III
Results of Freight Forwarder and Exporter
Surveys

14. What incentives, if any, do you see for going on AES?
(DO NOT read list. Click all that respondent volunteers)

All Eligible Respondents

None	23.7	(GO TO Q. 15)
One-stop filing	18.4	
Cost savings for company	7.9	
Convenience of automation	55.3	
Better trade statistics	0	
Other (Specify)	36.8	

N = 38

Those That Plan to Use AES

None	15.0	(GO TO Q. 15)
One-stop filing	15.0	
Cost savings for company	5.0	
Convenience of automation	55.0	
Better trade statistics	0	
Other (Specify)	40.0	

N = 20

15. I'd like your views about incentives for using AES mentioned by others.
Do you view [ASK FOR EACH LISTED BELOW] as an incentive for your
company to on go on AES or not? (Each item was asked of respondents
NOT volunteering the item in Q. 14. Results displayed include those who
volunteered the item in question 14.)

A. One-stop filing

Volunteered	18.4
Yes	42.1
No	18.4
Don't know	21.1

N = 38

Appendix III
Results of Freight Forwarder and Exporter
Surveys

B. Cost savings for company

Volunteered	5.3
Yes	39.5
No	15.8
Don't know	39.5

N = 38

C. Convenience of automation

Volunteered	55.3
Yes	34.2
No	2.6
Don't know	7.9

N = 38

D. Better trade statistics

Volunteered	0
Yes	60.5
No	15.8
Don't know	23.7

N = 38

16. About how much would you estimate it would cost your company to implement AES, if you chose to do so? (Asked of those planning to use AES or whose companies had not yet decided whether to use AES.)

All Eligible Respondents

MEDIAN	\$15,000
RANGE	2,000 - 750,000
INTERQUARTILE RANGE	95,000

Don't know 70.0

Those That Plan to Use AES

MEDIAN	\$57,500
RANGE	2,500 - 750,000
INTERQUARTILE RANGE	495,000

Don't know 70.0

Appendix III
Results of Freight Forwarder and Exporter
Surveys

N = 30

N= 20

17. About when do you plan to start using AES? (Asked of those planning to use AES.)¹⁶

Date Given: 7/97 - 1/99 42.1

Don't know 57.9

N = 19

18. And about how long do you think it would take for your company to implement AES? (Asked of those whose companies had not yet decided whether to use AES.)

Range of Responses

MONTHS 1 - 11

YEARS 2

BY (DATE) —

Don't know 60.0

N = 10

AES-PASS

19. Are you familiar with AES-PASS? (Asked of those planning to use AES or whose companies had not yet decided whether to use AES.)

All Eligible Respondents

Those That Plan to Use AES

Yes 36.7

Yes 40.0

¹⁶Two questions were asked about the timing of AES implementation: those planning to use AES were asked to estimate a date (Q.17); those whose companies had not yet decided whether to use AES were asked about how long it would take for their companies to implement AES (Q.18).

Appendix III
Results of Freight Forwarder and Exporter
Surveys

No 63.3 (GO TO Q.22)

N = 30

No 60.0 (GO TO Q.22)

N = 20

20. Is your company likely to apply for AES-PASS status? (Asked of those who were familiar with AES-PASS and who plan to use AES or whose companies had not yet decided whether to use AES.)

Yes 100.0 (GO TO Q.22)

No 0 (GO TO Q.22)

N = 11

21. Why does your company not plan to use AES?
 (DO NOT read list. Click all that respondent volunteers) (Asked of those who say they will not use AES.)

Lack of knowledge about AES

36.4 (GO TO Q. 22)

(Reasons spontaneously volunteered)

Predeparture filing requirement	36.4
Cost of automation	0
Personnel cost	0
Company hardware or software incompatibility with AES	0
Concerns about the amount of information required by AES	0
Concerns about how the information will be used by Customs	0
Concerns about privacy protection of information	0
Other (Specify)	36.4

N = 11

I'd like your views about some concerns mentioned by others in using AES.
 (Each item was asked of respondents who did not mention lack of knowledge above and who did NOT volunteer the item in Q. 21. Results displayed include those who volunteered the item in question 21 above.)

- 21a Are you concerned or not about the predeparture SED filing requirement of AES?

Appendix III
Results of Freight Forwarder and Exporter
Surveys

Volunteered	42.9
Yes	14.3
No	42.9
Don't know	0

N = 7

- 21b Are you concerned or not about the cost of automation necessary for your company to get on AES?

Volunteered	0
Yes	42.9
No	42.9
Don't know	14.3

N = 7

- 21c Are you concerned or not about the amount of information required by AES?

Volunteered	0
Yes	42.9
No	28.6
Don't know	28.6

N = 7

- 21d Are you concerned or not about how the information will be used by Customs?

Volunteered	0
Yes	28.6
No	71.4
Don't know	0

N = 7

- 21e Are you concerned or not about privacy protection of information?

Volunteered	0
Yes	57.1

**Appendix III
Results of Freight Forwarder and Exporter
Surveys**

No 42.9
Don't know 0

N = 7

SED Preparation and Filing

Next, we'd like to know how your company currently prepares some of its export-related paperwork. There are a number of ways a company may prepare and file the Shippers Export Declaration form with the Census Bureau. I'd like to ask you about the methods you used during the past year.

22. First, about what percentage of your export shipments required the filing of an SED during 1996? Your best estimate will suffice.

MEDIAN 95
RANGE 50 - 100
INTERQUARTILE RANGE 15

Don't know 12.7

N = 63

23. Did your company submit all of the SEDs for those shipments to Customs or did someone else also submit SEDs for those shipments?

We submitted all SEDs 28.6 (GO TO Q. 25)
Someone else submitted all or some of the SEDs 71.4

N = 63

24. About what percentage of the SEDs for your shipments did YOUR company submit to Customs in 1996? (Results displayed include respondents who answered "We submitted SEDs" to Q.23, scored as submitting 100 percent.)

MEDIAN 19.5
RANGE 0 - 100
INTERQUARTILE RANGE 100

**Appendix III
Results of Freight Forwarder and Exporter
Surveys**

Don't know 1.6

N = 63

25. How did your company submit its SEDs during 1996: Using paper SEDs, AERP, AES, or an Internet-based company linked to AES? (click all that apply) (Results displayed include only respondents who submit SEDs.)

Paper	92.1
AERP	5.3
AES	0
Internet	0
Unknown	5.3

N = 38

For AERP Users Only:

26. The Census Bureau plans on phasing out the AERP system by the end of 1999. How does your company plan to submit its SEDs once the AERP system is no longer available? (Click all that apply)

Company will use AES	75.0
Company will use an Internet service	0
No plans yet	0
Submit paper SEDs	25.0
Have an agent or the customer submit SEDs	0
Other (specify)	50.0

N = 4

For Paper SED Filers Only:

Business Computer Use

27. Does your company use a computer to manage any or all of its export-related record keeping? (Results displayed exclude paper filers who also file electronically.)

Yes 94.1

Appendix III
Results of Freight Forwarder and Exporter
Surveys

No 5.9

N = 34

And finally, we'd like to know about the filing of your export paperwork and the timing of your export shipments.

28. How difficult, if at all, was it for your company last year (1996) to file its paper SEDs with the carrier prior to departure of the goods?

(Read each response option and click one)

Of very great difficulty	11.8
Of great difficulty	2.9
Of moderate difficulty	17.6
Of some difficulty	5.9
Of little or no difficulty	61.8

N = 34

29. During the last year (1996), did your company deliver ANY SEDs to the carrier following departure of the goods? Do not include any submitted through AERP.

Yes	38.2
No	61.8

N = 34

30. About how many of your SEDs were delivered after departure of the goods?

MEDIAN	70.5
RANGE	1 - 100
INTERQUARTILE RANGE	97

Don't know 8.6

N = 35

**Appendix III
Results of Freight Forwarder and Exporter
Surveys**

Ask All:

That concludes our interview. Thank you for your time and your cooperation.
If there is any other aspect of AES you'd like to comment on, please feel free to
do so now.

Objectives, Scope, and Methodology

To determine whether AES is likely to achieve its objectives of improving export data, enhancing enforcement efforts, and streamlining export data collection, we interviewed Customs and Census headquarters officials and representatives of 12 government agencies with export-related responsibilities. We also visited 13 Customs ports, including air, sea, and land border ports, where we observed export processing and enforcement operations and where we interviewed numerous supervisory and line inspectors involved in these operations. We conducted interviews with over 30 potential users of AES, including 12 ocean and air carriers and all AES participants as of April 1997. We also interviewed over 10 of the top 16 AERP users in terms of value and volume of AERP filers. We also met with several trade groups representing various segments of the export community. In addition, we analyzed Customs' and Census' AES planning documents and Customs' strategic plans regarding its process for checking goods to be exported. We also reviewed data provided by both Customs and Census regarding their actual and projected costs for AES development. We did not independently verify the validity of their cost estimates.

As part of our effort to determine the trade community's plans for using AES, we conducted two surveys of potential AES users—U.S. ocean freight forwarders and exporters. A detailed summary of our methodology for these two surveys follows.

Freight Forwarder Survey Methodology

Study Population and Sample

The freight forwarder study population consisted of active licensed ocean freight forwarders and NVOCCs listed in the Federal Maritime Commission's December 1996 Regulated Persons Index. The 1,939 freight forwarder headquarters and 2,341 NVOCC listings were merged and duplicates were eliminated, resulting in a total population of 3,209. A simple random sample of 400 cases was selected from the combined list.

Twelve cases, although listed in the index, had not or were not currently providing freight forwarding or NVOCC services and therefore were considered ineligible for the survey. An additional six companies were found to be subsidiaries of others on our list. In these instances, a single respondent was chosen to respond on behalf of both companies.

We sent certified letters to companies we were unable to contact by phone. We received confirmation from the Postal Service that three of those cases were not located at the listed address, nor did the Postal Service have forwarding address information for those cases. The bonds and tariffs of two cases were cancelled by the Federal Maritime Commission. The population was adjusted to reflect these inactive cases. Applying the same adjustment to the sample resulted in a final sample size of 376.¹

Data Collection

Telephone interviews were completed with 331² freight forwarders and NVOCCs, for a response rate of 88 percent. Forty-five sample members either refused to participate (30), could not be scheduled for an interview during the study's time frame (4), or could not be contacted to confirm eligibility (11).

Sampling and Nonsampling Error

Because this study is based on a probability sample, our estimates involve some statistical uncertainty. Percentages and other estimates contained in the report are the midpoints of the 95-percent confidence intervals for the value being estimated. The results present intervals for items quoted in the letter.

To minimize nonsampling sources of error, such as question wording or sequencing effects and interviewer differences, the survey was pretested with 16 active freight forwarders and NVOCCs following intensive interviewer training and practice. The item nonresponse rate (the rate of interviewers not recording an answer to a question that should have been answered) for reported items ranged between 0 and 2 percent for questions asked of all respondents and between 0 and 5 percent for questions asked only of those not planning to use AES.

Nonresponse Analysis

We examined the Federal Maritime Commission's database to determine whether systematic differences held between our sample and the parent population as well as whether systematic differences distinguished nonrespondents from our respondents. We examined each group in terms of number of branch offices, as an approximate measure of size, the mixture of cases from the freight forwarder or NVOCC listings, and the region of the country in which they operated. All nonrespondents are listed as having single offices, and about 6 percent of respondents are listed as having two or more offices. Respondents and nonrespondents

¹One additional case was removed from the sample because its representative was a participant in discussions of AES with GAO in another capacity.

²Includes two cases for which the data were lost due to computer malfunction.

alike were equally divided between the freight forwarder and NVOCC source listings. No difference was found between respondents and nonrespondents in terms of their geographic location nor between the sample and its parent population.

Summary of Respondent Characteristics

The freight forwarders we interviewed are predominantly small companies. The great majority (94 percent) have single offices and few employees. Nearly one-half have 5 or fewer full-time employees, and 74 percent have fewer than 15. Collectively, our respondents employ a total of about 87,000 people, and they have a total of 490 office locations. Their home offices are located in 25 states and Puerto Rico. They served an estimated 132,000 clients during 1996 and had gross revenues of about \$4.6 billion.

We did not attempt to verify the accuracy of information, such as the cost of implementing AES, supplied by businesses during our interviews and surveys.

Exporter Survey Methodology

Study Population

The study population for the exporter survey consisted of the companies responsible for the greatest number of paper SEDs and/or those of the highest value filed with the Census Bureau in September 1996. Collectively, these companies filed or had their agents file 34,340 SEDs for exports worth \$3.9 billion. The number of SEDs filed by individual filers ranged from 2 to 2,293, and the value of goods exported ranged from about \$2.4 million to about \$492 million.

We obtained from the Census Bureau the names of the top 49 filers in terms of volume of SEDs filed and the top 49 filers in terms of the value of SEDs filed in September 1996. The two lists were combined and purged of duplicates. In addition, foreign embassies and U.S. foreign military sales units were removed from the list. The resulting list contained 80 filers located in 22 states. During the course of the study, we learned that for some companies, a single individual was responsible for one or more additional filers. Multiple cases for a single respondent were combined into a single case, leaving a final study population of 72 filers. Sixty-three of these companies responded to the survey, a response rate of 88 percent. Responding companies accounted for 92 percent of the SEDs filed by the total study population and 88 percent of their total value.

Nonresponse Analysis

To determine whether systematic differences distinguished nonrespondents from respondents, the two groups were compared in terms of the value and number of SEDs filed as well as their geographic location. Independent sample t-tests of the means of SED value and volume revealed no difference between the groups on either dimension.

Because the distributions of these variables were nonnormal, a second test, which grouped cases according to whether they fell in the top or bottom half of each distribution, was performed. The comparison revealed no difference between the two groups. The geographic distribution of nonrespondents also paralleled that of respondents. Item nonresponse for reported items ranged from 0 percent to 2 percent for questions asked of all respondents in this survey and from 0 to 5 percent for questions asked only of those planning to use AES.

We did our work between November 1996 and August 1997 in Washington, D.C., and in various Customs port locations across the United States, in accordance with generally accepted government auditing standards.

Comments From the Department of Commerce

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



THE SECRETARY OF COMMERCE
Washington, D.C. 20230

OCT 30 1997

Ms. Jay Etta Z. Hecker
Associate Director
International Relations and Trade Issues
General Accounting Office
Washington, D.C. 20548

Dear Ms. Hecker:

Thank you for the opportunity to comment on the GAO Draft Report to the Chairman, Senate Judiciary Committee, on the Automated Export System (AES).

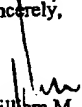
We appreciate the time and effort your staff has put into the preparation of this report and also appreciate the opportunity to provide comments on the report prior to its release.

The AES appears to be at a critical juncture yet is still in its infancy and is also a work in progress. It was recently expanded nationwide to accept commodity-related data for all modes of transportation. The module to accept post-departure data for approved exporters will soon be implemented. We believe it is premature to consider this study a full and final assessment of the effectiveness of AES or to infer such from the investigation conducted.

We are pleased with the progress of AES and are confident that it will succeed. We are also encouraged with many of the findings of your surveys. For example, knowing that 75 percent of the freight forwarders operating in ocean trade and 78 percent of the major exporters surveyed have heard about AES indicates the success of recent outreach efforts. We will continue with the full implementation of AES with the close and harmonious cooperation of the U.S. export trade community, the U.S. Customs Service and other Government agencies. Participation should grow dramatically over the next year. We invite the GAO to revisit the effectiveness of AES at that time.

Enclosed are our comments on the draft report. If you have any questions or need further assistance, please contact Mr. C. Harvey Monk, Jr., Chief, Foreign Trade Division, Bureau of the Census. He may be reached at 301-457-2255 by phone or 301-457-2645 by fax.

Sincerely,


William M. Daley

Enclosure

Enclosure

Bureau of the Census
Foreign Trade Division

Comments Concerning the Draft GAO Report
CUSTOMS EXPORT SYSTEM

Introductory Remarks

In the United States, the Bureau of the Census, specifically the Foreign Trade Division (FTD), is the official source of U.S. statistics on merchandise imports, exports, and the balance of trade.

The collection and compilation of foreign trade statistics are legally mandated in Title 13, United States Code. Chapter 9 of Title 13 directs the Secretary of Commerce to collect, compile, and publish foreign trade statistics on a monthly and cumulative basis. To accomplish this, Section 303 directs "the Secretary of the Treasury to collect information in the form and manner prescribed by the regulations issued pursuant to this chapter from persons engaged in foreign commerce or trade" The Secretary of the Treasury has delegated this function to the U.S. Customs Service (Customs).

To accomplish its statutory mandate, the Census Bureau is committed to improving the quality and accuracy of the trade statistics through the implementation of new technology and the reduction of respondent burden. To date, the Census Bureau/Customs partnership has been innovative in implementing new technology and automation in the import documentation process. Over 98 percent of the 24 million annual import transactions included in statistics are reported electronically through Customs to the Census Bureau.

Attention is now focused on further automating export processing. Over one-third of the 1.5 million monthly transactions included in trade statistics are currently reported on paper documents. The Customs/Census Bureau goal, through the implementation of the Automated Export System (AES), is to reduce the burden on U.S. companies, facilitate legitimate export shipments, and make the United States a world leader once again in providing the highest quality export trade statistics.

The Census Bureau has been encouraged by the progress of participation in AES so far. More than 35 companies representing more than 3,600 exporters now participate in AES. The General Accounting Office (GAO) survey also shows substantial interest by exporters and freight forwarders in joining AES.

Current Export Documentation Environment

The collection of export information is derived from the required filing of the Shipper's Export Declaration (SED) (or its electronic equivalent). In addition to providing official data on exports, the SED is an export control document enabling Customs and other Government agencies to enforce export laws and regulations.

Until recently, the vast majority of data compiled on exports were captured from the SED. The current export documentation process is a mixture of paper and electronic processes. The AES is the most recent in a series of initiatives to improve this process and reduce filer burden.

The Automated Export Reporting Program (AERP) permits authorized companies to report export transactions directly to the Foreign Trade Division on a monthly basis via tape, floppy disc, or direct computer-to-computer transmission. Exporters (or their agents) do not file a paper SED when each export shipment is made. The carriers indicate on their manifest that no SED is required from AERP filers so that Customs agents are aware of this as they perform their review.

The AERP only satisfies the statistical needs of the Census Bureau. Customs and other Government agencies with enforcement responsibilities still must rely on the paper SED or their own documents to satisfy their requirements, imposing additional burden on exporters.

The U.S.-Canada data exchange reengineered the provision of export data collection in both countries and significantly reduced the reporting burden on exporters. Under a historic 1987 agreement, the United States and Canada exchange import data and use them in lieu of collecting and compiling export data. The Customs, Census Bureau, Statistics Canada, and Canada Customs and Excise, successfully implemented this data exchange starting in January 1990. The data exchange immediately eliminated the burden of 800,000 hours associated with filing more than 4,000,000 SEDs annually and at the same time significantly improved the quality of the U.S. export statistics.

Collecting and processing the remaining 500,000 paper SEDs monthly is burdensome, costly, and cumbersome. Current regulations (15 CFR 30.12) state: "the Shipper's Export Declaration in the number of copies required by 15 CFR 30.5 shall be delivered to the exporting carrier prior to exportation." The exporting carrier collects the SEDs and includes both copies as part of the complete manifest to be filed with Customs. The carrier has four business days after departure to assemble and file the paper documentation; that is, the manifest with attached SEDs. Customs mails the SEDs to the Census Bureau processing facility where the statistical data are keyed. More than 500,000 SEDs (with the associated 90,000 burden hours to the trade community) are processed in this manner each month.

In addition to the paperwork burden and associated costs, there are other problems that lead to coverage and quality deficiencies in the data. These deficiencies may be caused by uncertainty regarding reporting requirements, honest mistakes, or by deliberate circumvention of the regulations. Half of the current SEDs collected contain one or more obvious reporting errors. An unknown number are deliberately misclassified or under valued to avoid duties or import restrictions in the country of destination. The deficiencies have a significant impact on the quality of the detailed commodity level statistics used in business decisions concerning export market opportunities, assessing competition and market share and assessing the impact of imports on domestic production and U.S. exports. Furthermore, exports of licensed and sensitive commodities not being reported may harm our national security.

The AES will solve these problems by automating the export documentation process, facilitating legitimate export trade, and reducing the burden on U.S. companies ensuring their continued

competitiveness in the global marketplace.

Trade Community Concerns and Other Issues Addressed by GAO in the Report

Predeparture Filing of Export Information

According to the GAO report, most companies interviewed cited the requirement for predeparture filing as the main reason for not participating, but the figures in the GAO surveys do not support this. Only 2.1 percent of the freight forwarders surveyed volunteered that the requirement for predeparture filing was a reason for not participating in AES. As well, only 10.8 percent reported great or very great difficulty in filing prior to departure. While the percentage of exporters volunteering that the requirement for pre-departure is the main reason for not participating in AES is relatively high (36.4 percent), the percentage of exporters actually experiencing difficulty with filing the SED pre-departure is low (14.7 percent experience great or very great difficulty with predeparture filing). We believe it should be stressed that predeparture filing is the legal requirement. The same predeparture filing requirement that applies today in the paper SED environment also applies to AES.

In the air and overland environments, the SEDs are filed with the carrier prior to departure. The business practice of filing SEDs post-departure is limited to the vessel environment, where exporters (or their agents) have taken advantage of this four-day allowance to file their SEDs with the carrier. These business practices violate Federal regulations.

The United States is not alone in requiring some information prior to departure. Six countries surveyed by GAO require at least some information predeparture. For example, Japan requires that all export data be filed predeparture.

The AES-Post-Departure Authorized Special Status (AES-PASS) allows for post-departure filing, as requested by the trade community, while still supplying Customs with predeparture information on the exporter and license requirements. The bulk and grain exporters who have been very vocal about their difficulty with supplying true quantity and value information pre-departure would be good candidates for AES-PASS.

Level of Participation in AES

Several references in the GAO report are made concerning the perceived low participation rates in AES. However, this is to be expected. A phased implementation approach was chosen to minimize the impact of possible problems associated with implementing a new system. The AES became operational at five vessel ports in July 1995. In October 1996, it expanded to all vessel ports. On July 1, 1997 AES began accepting commodity data for all methods of transportation from all U.S. ports of export. We believe that an assessment of the level of participation in AES is premature since it was just recently available nationwide for all methods of transportation.

See comment 1.

Now on pp. 2, 5, and 6.

See pp. 20-21.

Appendix V
Comments From the Department of
Commerce

4

Now on pp. 5 and 7.

However, the number of participants in AES increased steadily since the expansion to all methods of transportation in July. As of September 30, 1997 there are 8 exporters filing their export information directly through AES, 27 freight forwarders filing on behalf of approximately 3600 exporters, and 2 carriers filing transportation information electronically through AES. With the implementation of AES-PASS, participation will increase rapidly as current AERP participants and others switch to AES-PASS.

The Census Bureau is also encouraged by several results of the GAO survey. Specifically, of those freight forwarders with plans concerning AES, 72 percent plan to use AES, and of the exporters with plans concerning AES, 64 percent plan to use it.

Participation of Other Government Agencies

See comment 2.

Another highlighted point in the GAO report is that AES does not accommodate the needs of all agencies involved in export regulation. However, the GAO survey results show that 80 percent of the freight forwarders and 60 percent of the exporters surveyed had to report only to the Census Bureau and Customs. The AES meets the needs of both the Census Bureau and Customs. The two agencies are committed to work with other agencies to meet their requirements.

See comment 3.

Now on pp. 16-17.

The AES was designed as an information gathering and gateway system. It was not designed to replace the license and permit application functions of other government agencies. It was however, designed to provide other agencies with information on the usage of that license on a shipment-by-shipment or summary basis. The AES currently validates State Department, Bureau of Export Administration, and other government agency licenses prior to exportation with appropriate error messages being generated for invalid licenses. The AES will also provide for license decrementation in the future.

Government agencies participating in AES include the U.S. Customs Service, the Census Bureau, Bureau of Export Administration (Office of Enforcement Support and Office of Foreign Assets Control), and Nuclear Regulatory Commission (Division of Nonproliferation). These agencies are also included in the review process of AES-PASS applications.

Cost of Automation

See comment 4.

The report emphasizes the need for paper filers to automate their procedures in order to file via AES. However, the GAO survey shows that 76 percent of freight forwarders filing by paper and 94 percent of surveyed exporters filing by paper already use a computer to manage their export-related recordkeeping. So, currently, they print out information from their computers onto paper documents that are then physically moved to Customs and the Census Bureau, then keyed into the Census Bureau computers. This is not efficient for either the trade community or the Government.

Now on p. 4.

Companies that submit their data via paper SEDs and want to participate in AES will have the choice to automate their export processing, purchase software, or use the facilities of a port

Now on p. 13.

authority or service center. According to the GAO survey, no exporters cited the cost of automation as a reason for not planning to use AES and many cited the benefits of automation as their primary reason to use AES.

Interview and Survey Results

See pp. 20-21.

The Census Bureau does not dispute the results of the interviews and surveys; in fact, we are pleased with the responses to many of the questions. We recognize that the information given in the report depicts the opinions and perceptions of the persons surveyed or interviewed. However, we do feel that GAO does not always put the information in perspective so that the reader can readily determine the significance of the responses.

Results from the personal interviews and telephone surveys appear to carry the same weight in the body of the report even though sample sizes, randomness, and selection methods varied and few specifics are given about the interviews. Some of this information is given in Appendix IV, Objectives, Scope and Methodology, but we feel that the reader would be better served if a brief summary of this information appeared with the discussion of the results.

We also believe the results of the telephone surveys do not accurately reflect the views of the entire export trade community. The freight forwarder survey used a simple random sample of licensed ocean freight forwarders and NVOCCs (Non-vessel operating cargo carriers). This survey only represents the views of ocean freight forwarders and NVOCCs. Incidentally, this group accounts for only 30 percent of non-Canadian export shipments (or 45 percent of the value). This information cannot be characterized as the views of the entire freight forwarding community. The exporter survey, however, used a sample of only the top 80 paper filing exporters in a single statistical month. The AERP exporters, which include the largest exporters in terms of value and number of shipments were excluded. While the exporters' responses are interesting, GAO should stress that this is not a scientifically drawn sample, and the responses may not represent the entire community of exporters.

The following are GAO's comments on the Department of Commerce's letter dated October 30, 1997.

GAO Comments

1. Our draft report stated that predeparture filing is a major concern for some segments of the export community, including certain industry groups, airlines and air couriers, and companies that export bulk goods or grain commodities. However, we do not state that most companies we interviewed cited the requirement for predeparture filing as the main reason for not participating in AES.

We note that nearly 40 percent of both the freight forwarders and exporters we surveyed reported that they have at least "some" to "very great" difficulty filing SEDs predeparture. In addition, about 40 percent of both groups said they filed SEDs late in 1996. Among companies that reported little or no difficulty filing SEDs predeparture, 28 percent of all ocean freight forwarders and 19 percent of exporters we surveyed said they filed SEDs late in 1996.

2. In commenting on the percent of companies that report only to Census and Customs, Census did not take into account those companies that reported having licensing requirements. Therefore, the statistics they cite are inaccurate. About 61 percent of all ocean freight forwarders, and, of the exporters we surveyed, 32 percent have no license or other agency reporting requirements.

3. We note in our report that AES was designed to serve as a source of export data for agencies with export requirements and reduce redundancies in filing and paperwork associated with various export control requirements. This paperwork includes license application data. We revised the text to make clear that AES was not designed to replace an agency's authority to regulate exports.

4. We do not suggest that paper filers need to automate their procedures in order to file via AES. Rather, our report lists various options available to companies that want to convert from filing paper SEDs to filing via AES (see p. 4).

Comments From the U.S. Customs Service

Note: GAO comments supplementing those in the report text appear at the end of this appendix.

THE COMMISSIONER OF CUSTOMS



WASHINGTON, D.C.

October 27, 1997

EXP-1-OFO:OB CDB

Ms. Jay Etta Hecker
Associate Director
International Relations and Trade Issues
General Accounting Office
Washington, D.C. 20548

Dear Ms. Hecker:

We appreciate the opportunity to comment on the GAO Draft Report to the Chairman, Senate Judiciary Committee, on the Automated Export System (AES). Your staff did a thorough review of AES and we appreciate their effort.

We agree with your report that AES is at a critical juncture in its implementation. The Bureau of the Census (Census) projects that exports will increase 6 percent per year and, by 2003, will total \$1.2 trillion. This growth is occurring at a time when both government and business are cutting costs and staff to do more with less. Automation is the key to meeting this challenge.

We are encouraged that your report substantiates that the majority of the trade community supports full export automation and sees the benefit of one-stop filing for all of their government data requirements. We are also encouraged by your validation that at least 80 percent of the information required predeparture is, in fact, available predeparture. Thus, companies are able to comply with existing export laws, even though current business practices have become lax about timely filing of the paper Shipper's Export Declaration (SED).

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See comment 1.

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There are, however, points in your report that require clarification.

1. Participation is low.

Early in the development of AES, Customs and Census made the decision to use a phased implementation approach over several years starting with a limited number of vessel ports, moving from there to all vessel ports, then expanding to commodity data for all ports/all modes, and finally, air transportation data in FY 98 and land in FY 99.

During the period of time covered by your review, AES was expanded to all vessel ports in October 1996. Expansion to all modes of transport at all ports did not occur until July 1997, when your review ended, therefore, it is premature to draw a conclusion on the participation rate. I offer the following information on participation since the close of your review. Active participants have more than doubled since the July expansion. These filers process data on behalf of 4,000 unique exporters. The participation numbers continue to grow weekly. We expect to migrate 50 percent of the Automated Export Reporting Program (AERP) filers to AES by the end of FY 98. We also expect to reduce paper SEDs by 8 percent in the first quarter of FY 98 and 20 percent (100,000/month) by the end of FY 98. This growth rate is comparable to previous automation efforts. The commercial import system, Automated Broker Interface (ABI), was at 8.7 percent of paper at the time of nationwide expansion and 22 percent at the end of the first year of nationwide implementation.

Now on p. 4.

See pp. 20-21.

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In addition to the phased implementation, there were several factors that influenced participation:

- a business decision by many companies to leverage their investment by waiting until commercial software was available that combines AES functions with other business processes such as billing and tracking. That software is now becoming available on the market and AES participation is expected to increase as a result;
 - lack of a post-departure filing option for qualified participants. The Automated Export System - Post Departure Authorized Special Status (AES-PASS) provides that feature and is available to the trade on November 1, 1997;
2. AES provides limited targeting and enforcement capability due to late receipt of predeparture data and the PASS post-departure filing feature.

The current outdated paper export process generates vessel manifests with 40 percent bill of lading errors, SEDs with a 30 percent timely filing error rate, and 50 percent content error rate. This late inaccurate information causes Customs to guess at what is in an outbound container often after the goods have already left the country. This inaccurate information also has a serious impact on balance of trade numbers, puts our trade negotiations at risk, and impacts the Gross Domestic Product and often is the cause of stock market fluctuations.

AES already includes the ability for inspectors to target at both the national and local levels. AES will also provide the data that feeds other targeting systems such as ATS to provide trend analysis on historical data at a port level. This information

Now on pp. 3-4
and 14.

- 4 -

then feeds back into the criteria built into AES so we can target only high risk shipments related to drugs, terrorism, money laundering, HazMat, stolen vehicles, weapons, dual use technology, or sanctioned shipments. This focused targeting on exceptions or unusual activity directs Customs resources where they are needed most for national security and safety, and facilitates the movement of legitimate cargo.

We concur with your recommendation that AES interface with other enforcement data bases to provide more utility for the inspectors. AES is meant to be used in conjunction with other enforcement tools. Our FY 98 programming plans call for links with Treasury Enforcement Communications System to provide interfaces with Department of Commerce/Bureau of Export Administration, Department of State/Office of Defense Trade Controls, and Department of Justice/Drug Enforcement Administration. Development is also underway for links to vehicle identification number data on stolen vehicles.

We concur with your finding that the post-departure filing program, PASS, is not the ideal situation to address the enforcement needs of the government. The planning team for PASS had the unenviable task of reconciling diametrically opposing needs: Facilitation vs. Enforcement. The government needs predeparture information to determine the risk of a shipment and to locate it for examination, if necessary. The trade has raised questions about predeparture information availability and seems to fear that shipment delays will result from providing any predeparture information. Therefore, I am directing the Outbound Process Owner and the Outbound Planning Council to reevaluate the PASS program.

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We also concur that predeparture transmission of SED information, just prior to vessel-sailing, hampers enforcement efforts. However, current regulations allow for SED information to be transmitted minutes prior to sailing which negates the effectiveness of the SED as a targeting tool. We have also had extensive dealings with the sea carrier industry to capture their booking information well in advance. While this will enrich the export data stream greatly, use of carrier data is not a panacea to the problem you pointed out. Information from forwarders and exporters themselves, is very important.

3. Comparison to other countries' systems.

Appendix I of your report contains a comparison of export data collection systems of some of our major trading partners: Canada, Australia, Japan, South Korea, Mexico, and the United Kingdom (U.K.). The similarities with AES are worth highlighting:

- All but one country provide for a voluntary automated system with some paper filing. (Mexico mandates automation.)
- All but one require predeparture data with a post-departure filing option for approved exporters. (Japan allows for only predeparture filing.)
- Required predeparture data is the same as or close to the United States requirement for AES.
- All but one system is used for targeting. (U.K. does not.)
- Half require export data a minimum of 24 hours before loading.

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4. Limitations in other government agency participation.

AES is a good government issue and the sharing of data among Federal agencies needs to be addressed at the highest government management level. AES is intended to provide a single vehicle for data collection and processing - a single face to government for the trade in accordance with the National Performance Review. AES is not intended to take the place of any agencies authority or process for license application or approval. Rather, AES is the vehicle for data collection, processing, and license decrementation on behalf of those agencies who have licensing requirements. A majority of the agencies who will also benefit from AES are those with outbound shipment monitoring and reporting requirements. With AES, many of the paper forms now required would be eliminated, reducing the paperwork burden on the trade. Duplicate data bases across government will also be reduced.

Some of the limitations or obstacles to achieving this goal quickly are:

- lack of staff resources or budget in many agencies, Customs included;
- outdated regulations that need to be changed because they do not meet today's real world needs;
- conflicting policy and political priorities across agencies; and
- reluctance to share data even though a number of agencies have statutes requiring the collection of the same data.

See comment 2.

Now on p. 16.

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We will continue to work closely with the other agencies to get them on AES as quickly as possible. There needs to be recognition that to build a product to serve the needs of a broad range of agencies requires time and the support of Congress and OMB.

Again, thank you for the opportunity to comment on your report. We want to build on the momentum that AES is now gaining to move forward with a system that satisfies the needs of both the government and the trade as equitably as possible. If you have any questions, please contact Mr. Peter J. Baish, Outbound Process Owner, at (202) 927-6060.

Sincerely,


Samuel H. Banks
Acting Commissioner

The following are GAO's comments on the U.S. Customs Service's letter dated October 27, 1997.

GAO Comments

1. Our report does not state that the majority of the trade community supports full automation or that a majority recognizes the benefit of one-stop filing. Instead, our survey shows that 45 percent of all ocean freight forwarders and 55 percent of the exporters we surveyed cited the convenience of automation as an incentive to use AES. Only 16 percent of ocean freight forwarders and 18 percent of the exporters we surveyed cited one-stop filing as an incentive to use AES. Similarly, our work does not validate that 80 percent of the information required predeparture is in fact available predeparture. We note in our report that representatives from some companies participating in Customs' 1996 evaluation of AES stated that they believe that 80 percent of the time they have information needed to complete the SED prior to predeparture of the vessel. We did not attempt to determine whether this was an universal view among companies in the exporting community. Conversely, our surveys show that nearly 40 percent of both the freight forwarders and exporters we surveyed reported that they have at least some to very great difficulty filing SEDs predeparture. About 40 percent of both groups said they filed SEDs late in 1996.

2. We note in our report that AES was designed to serve as a source of export data for agencies with various export control requirements and to reduce redundancies in filing and paperwork. This paperwork includes license application data. However, we also state that AES is unlikely to achieve its objective of providing exporters with "one-stop shopping" because most agencies' export requirements cannot be fully satisfied through AES. We also note that AES will not reduce or eliminate agency paperwork or the electronic filing associated with the issuance of export licenses, certificates, or permits. However, we have revised the text to make clear that AES was not designed to replace an agency's authority to regulate exports.

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